priations $234,692,370, being the post-office appropriations, and there remained $798,790,362.12. The Senator from Rhode Island admits that I have been fair at least to the other side of the argument in estimating the revenue from internal tax at $255,000,000 and other sources at $64,000,000, making a total of $319,000,000; and deducting this from the sum formerly named, we are confronted with $479,790,362.12 to be provided from the customs receipts or through some other method of taxation, or explained away by the suggestion that although we make the appropriation we will not need the money. I will reach that phase of it later.

We are now led to an inquiry with respect to the amount which the present bill will probably raise at the custom-houses. Under the Dingley Act for the last four years there were received as import duties as follows:

For the year 1905, $261,798,857; for the year 1906, $300,251,878; for the year 1907, $332,233,363; for the year 1908, $286,113,130.

I mentioned these receipts simply that we may bear them in mind when we come to estimate the receipts for the coming two years.

The chairman of the Finance Committee has said that upon the imports of 1907 the bill before us, if it had been applied to the imports, would have raised $8,000,000 more than was raised by the existing law, and I accept his judgment as to the comparative efficiency of the two schedules.

Mr. ALDRICH. I should like to modify that.

Mr. CUMMINS. The Senator wants to modify that statement by somewhat increasing the amount?

Mr. ALDRICH. I should say if the bill passes both Houses in the form it now stands in the Senate, we would receive $15,000,000 more of revenue than would be received under the old law in any current year. Taking the estimate of 1907 as a basis, that would give us $347,000,000 of receipts during the next fiscal year. If the bill as it now stands should become a law, I state without the slightest hesitancy that the receipts from customs would exceed $350,000,000 in the next fiscal year.

Mr. CUMMINS. I knew we had raised the duties very often and very high, but I did not suppose that we had produced any such effect as this upon our imports.

Mr. BRISTOW. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Kansas?

Mr. CUMMINS. I do.

Mr. BRISTOW. I suggest the absence of a quorum.

Mr. CUMMINS. I hope very much the Senator will not do that.

Mr. ALDRICH. I am quite willing, if the Senator wishes, to make a motion to adjourn.

Mr. CUMMINS. My remarks are going to be longer than I intended. I expected to complete my remarks this evening.

Mr. ALDRICH. It is quite convenient to me to make the motion.

Mr. CUMMINS. Very well.

Mr. ALDRICH. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 16 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, June 30, 1909, at 10 o'clock a. m.

SENATE.

WEDNESDAY, *June 30, 1909.*

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. KEAN. I present a telegram in the nature of a petition from the Building and Loan Association League of New Jersey, which I ask may be read.

There being no objection, the telegram was read and ordered to lie on the table, as follows:

ATLANTIC CITY, N. J.,
June 29, 1909.

Hon. JOHN KEAN,
United States Senator, Washington, D. C.:

The Building and Loan Association League of New Jersey, in session this day, resolved that if the corporation act does not exempt building and loan associations from its provisions great injury will be done these thrifty members who are seeking homes out of their wage earnings through the building-society system. We respectfully petition our Senator and Members of Congress to do all in their power to exempt building and loan associations from the provisions of corporation taxes. These societies lend all their funds to home seekers, who not only pay taxes on the homes they buy or build, but they form a community of peace-loving citizens always striving for the public good.

JOSEPH A. MCNAMEE, *President.*

Attest:
HOWARD R. CLOUD, *Secretary.*

Mr. FLINT. Mr. President, I suggest the lack of a quorum.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and, after some delay, the following Senators answered to their names:

Bacon	Clay	Gore	Perkins
Beveridge	Crawford	Guggenheim	Piles
Borah	Culberson	Hughes	Root
Briggs	Cullom	Johnson, N. Dak.	Scott
Bristow	Cummins	Kean	Simmons
Brown	Curtis	Lodge	Smith, Mich.
Burkett	Davis	McCumber	Smoot
Burrows	Dick	McLaurin	Stone
Carter	Dillingham	Money	Sutherland
Chamberlain	Flint	Nelson	Taliaferro
Clapp	Frye	Oliver	Tillman
Clark, Wyo.	Gallinger	Page	Warner

Mr. BRISTOW. I wish to state that the junior Senator from Washington [Mr. JONES] is detained from the Senate this morning on departmental business.

The VICE-PRESIDENT. Forty-eight Senators have answered to the roll call. A quorum of the Senate is present. Are there further petitions and memorials?

Mr. GUGGENHEIM presented a paper to accompany the bill (S. 2785) granting an increase of pension to Thomas H. Waltemeyer, which was referred to the Committee on Pensions.

He also presented sundry affidavits to accompany the bill (S. 2640) granting an increase of pension to Joseph P. Theobald, which were referred to the Committee on Pensions.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GALLINGER (by request):

A bill (S. 2799) for the prevention and punishment of cruelty to animals in the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

By Mr. GUGGENHEIM:

A bill (S. 2800) granting an increase of pension to Lorin N. Hawkins (with accompanying papers); to the Committee on Pensions.

AMENDMENT TO THE TARIFF BILL.

Mr. DICK submitted an amendment intended to be proposed by him to the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, which was ordered to lie on the table and be printed.

SEPARATION OF THE TARIFF BILL.

Mr. GORE submitted the following resolution (S. Res. 62), which was read:

Senate resolution 62.

Resolved, That the Committee on Finance is hereby instructed to arrange and report each separate schedule of the pending bill as a separate, distinct, and complete bill within itself, to the end that every Senator may have the opportunity to vote for or against each of said measures in accordance with his judgment, without being obliged to vote for or against the whole, and to the further end that the President of the United States may be enabled to approve or disapprove each several measure upon its merits, and shall not be forced to the alternative of approving the entire measure as a whole, including what his judgment condemns, or else vetoing the measure as a whole, including what his judgment approves.

Mr. GALLINGER. Let the resolution go over.

The VICE-PRESIDENT. The resolution goes over, under the objection of the Senator from New Hampshire.

Mr. GORE. Mr. President, I should like to say that I had intended to make the request myself that the resolution go to the table subject to call.

I wish to make a further announcement. I shall at an early day either ask for its adoption or ask that it be referred to the Judiciary Committee, and I make that announcement for this reason: I wish to investigate further, and I wish to confer with my associates as to the technical right and power of the Senate to subdivide a revenue bill which under the Constitution must originate in the House of Representatives.

With the permission of the Senate, I should like to say further that I shall probably seek a report of the Judiciary Committee upon that phase of this question. In the meantime this resolution stands as an avowal of my own views as to what the Senate ought to do if it has the constitutional power.

I have withheld this resolution until each and every schedule was finally agreed to. I have withheld it until the cotton, woolen, sugar, and paper schedules were finally adopted. I have withheld it until I was convinced that the pending tariff bill is worse and will remain worse than the present tariff law. I withheld it until I was convinced that the President of the United States, in order to keep the word of promise to the hope as well as to the ear of the American people, ought to veto this measure when it is finally passed by the two branches of Congress.

Mr. President, Mr. Cleveland characterized the Wilson-Gorman bill as an act of party perfidy and party dishonor. There is no doubt that in the passage of that bill the Democracy defaulted its bond. There is no doubt that the American people rebuked and repudiated the Democracy for that breach of faith. In my judgment it would have been infinitely better both for the fame of Mr. Cleveland and for the fortunes of his party if he had vetoed that measure outright instead of suffering it to become a law without his approval.

It seems to me that the Republican party is now following in the footsteps of the Democratic party, and that it may follow that party into either temporary or permanent retirement. The Republican party is now breaking its plighted faith. It is now breaking its sealed and sacred covenant with the American people. I do not doubt that the people will rebuke and repudiate the party for its violated faith and for their disappointed hopes. It will be better for the fame of Mr. Taft and better for the fortunes of his party if he should veto this Payne-Aldrich bill, this badge—if I may appropriate the phrase—of party perfidy and dishonor.

I confess myself less concerned about that fame and that fortune than I am for the welfare, the prosperity, and the emancipation of the American consumer. The people of this country will not again be cheated by the specious and illusive plea that the tariff should be revised by its friends and that the trusts be curbed by their friends. That is a mild-mannered remedy which is satisfactory in the highest degree to the beneficiaries of the tariff and the trusts, but this nostrum will not again deceive and ensnare the victims of the tariff and the trusts, the long-suffering American people. The President's veto is the people's hope and their only hope.

I may have something further to say upon this subject before the debate closes.

The VICE-PRESIDENT. The resolution goes over.

THE TARIFF.

The VICE-PRESIDENT. The morning business is closed, and the first bill on the calendar will be proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 1438) to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes.

The VICE-PRESIDENT. The Senator from Iowa [Mr. CUMMINS] will proceed.

Mr. CUMMINS. Mr. President, I do not at all wonder that there is difficulty this morning in securing a quorum——

Mr. CLAPP. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I do.

Mr. CLAPP. That awakens a suggestion in my mind. I suggest the want of a quorum.

Mr. CUMMINS. I hope the Senator from Minnesota will withdraw that suggestion.

The VICE-PRESIDENT. Had the Senator yielded to the Senator from Minnesota?

Mr. CUMMINS. I yielded to the Senator from Minnesota.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clark, Wyo.	Gore	Page
Bailey	Clay	Guggenheim	Perkins
Beveridge	Crawford	Heyburn	Piles
Borah	Culberson	Hughes	Root
Brandegee	Cullom	Johnson, N. Dak.	Scott
Briggs	Cummins	Kean	Simmons
Bristow	Curtis	La Follette	Smith, Mich.
Brown	Davis	Lodge	Smoot
Burkett	Dillingham	McCumber	Stone
Burrows	Flint	McLaurin	Sutherland
Carter	Foster	Money	Taliaferro
Chamberlain	Frye	Nelson	Warner
Clapp	Gallinger	Oliver	Wetmore

The VICE-PRESIDENT. Fifty-two Senators have answered to the roll call. A quorum of the Senate is present. The Senator from Iowa will proceed.

Mr. CUMMINS. Mr. President, I repeat that I do not wonder it is somewhat difficult to secure a quorum this morning, because it is uncomfortable in every sense. The weather is disagreeable. The amendment we are considering ought to make people uncomfortable. We are told by the morning's paper that the distinguished chairman of the Finance Committee has gone upon a sea voyage. I hope that it is true, for he has not only earned a rest during the last few weeks, but after the acknowledgment which he made yesterday to the Senate with respect to his motive in bringing forward the amendment we are now considering he needs the inspiration and the recuperation of a sea voyage. I would want to take a trip lasting about a thousand years if I should be compelled to make a confession of that sort with respect to a bill brought forward by myself. I will give some attention to that particular phase of the matter a little bit later.

Mr. CLAPP. Will the Senator pardon me? He is alluding to people who are comfortable or uncomfortable.

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I do.

Mr. CLAPP. I also notice by the newspapers that the large corporations are not uncomfortable. They are reported as being satisfied with this proposition.

Mr. CUMMINS. I should think they would be exceedingly well satisfied with it. I can hardly conceive an instrument better calculated to further their desires than the amendment now before the Senate. It is true it levies some tribute upon them, but not so much tribute or under such rigorous conditions as the amendment offered by the Senator from Texas, and myself. I shall have occasion also to examine that part of the matter before I shall have finished.

But I resume an examination of our financial condition, because, as I said yesterday, I would not favor an income tax or an inheritance tax or any other sort of a supplemental revenue-producing measure if I did not believe we needed some supplement to our revenue. I had stated yesterday that, deducting the appropriations for the postal service, our appropriations for the last session for the year ending June 30, 1910, aggregated $798,790,362.12. I had shown that our revenue from all sources other than custom-houses would aggregate not more than $319,000,000, and the Senator from Rhode Island [Mr. ALDRICH] admitted that my estimate of revenue from other sources than the custom-houses was rather more than less than it ought be. I had shown that we must raise, then, from the custom-houses or some other kind of taxation $479,790,362.12. It was at this point that the Senator from Rhode Island yesterday questioned the accuracy of my computation. It was at this point that he declared there should be deducted from this fund some $90,000,000, composed of an item of $60,000,000 to replace or to reimburse our sinking fund and $30,000,000 in order to make good deposits which had been made by our national banks for the purpose of redeeming or retiring their circulating notes.

I intend in a very few moments to give some consideration to the item of $60,000,000 for our sinking fund and $30,000,000 for the retirement of our national-bank notes.

But it will be remembered that the Senator from Rhode Island also said that the expenses of the Government from year to year were notably and sensibly less than our appropriations year after year. In this the Senator from Rhode Island is mistaken, if my information can be relied upon.

While I do not intend to go into the items just now, I am having prepared a table showing the appropriations for the years 1900 to 1906, inclusive. I will not come further down, because we do not secure a fair comparison if we enter those years in which the appropriations have not yet been fully expended.

I ask leave to print as a part of my remarks a table showing the appropriations in these six years and the expenditures of the Government for these six years.

The VICE-PRESIDENT. Without objection, permission is granted.

The table is as follows:

Total regular annual appropriations for fiscal years as follows:

1900–1901	$577, 438, 642. 88
1901–1902	605, 980, 355. 99
1902–1903	626, 573, 276. 55
1903–1904	620, 468, 686. 02
1904–1905	639, 700, 555. 18
1905–1906	673, 348, 314. 96
1906–1907	739, 512, 865. 16

Total expenditures as shown by report of the Secretary of the Treasury.

1900–1901	$590, 068, 371. 00
1901–1902	621, 598, 546. 54
1902–1903	593, 038, 904. 90
1903–1904	640, 323, 450. 28
1904–1905	725, 984, 945. 65
1905–1906	720, 105, 498. 55
1906–1907	736, 717, 582. 01

Mr. CUMMINS. This does not include permanent annual appropriations or expenditures for such funds as sinking fund, currency-redemption fund, and the like.

The very fact that every year we are called upon to supply deficiencies in our appropriations ought to be a sufficient answer to the suggestion of the Senator from Rhode Island. I therefore take it as a matter established beyond any reasonable doubt that for the year ending June 30, 1910, we must have from the custom-houses or from an income tax or from an inheritance tax or from a so-called "corporation tax" the sum of at least $479,000,000.

I recapitulated yesterday our receipts from the custom-houses for the last four years. I will not repeat that statement, save

to say that for the year ending June 30, 1908, we received $286,113,130. I suppose I might know, if I had been able to get to the Secretary of the Treasury this morning, just how much we had received for the year ending June 30, 1909, but I have not been able to do so, and I therefore take the year 1908.

The estimate of the chairman of the Finance Committee, made early in this matter, was that in the year ending June 30, 1910, the bill which is about to become a law, I regret to say, would raise, if it applied to the imports of 1907, which was a year of extreme commercial and industrial activity, $8,000,000 more than was raised by the existing law. I accept his judgment with respect to the operation of the bill that is about to be passed upon the imports of the year 1907.

But I dissent from his judgment in other particulars: First, I do not believe that commercial activity will be as conspicuous in the coming year as it was in 1907, and for that reason his conclusions are well to be questioned. We have a better guide than that. I have taken, as the test of the present law upon the imports of the country, the experience of 1907 and the experience of 1909. I am now speaking of the amount that will be raised if we make no change in the law. I take the first five months of 1907 and the first five months of 1909. There has been a gratifying increase in the receipts at the custom-houses for the year 1909—so much of it as has been spent—as compared with the year 1908. It is due, as I believe, to two causes—first, a renewed activity and partial recovery from the depression of 1907; but it is due still more to the fact that importers know that we are about to increase the duties upon many things, and especially upon noncompetitive things, and they are importing all they can in order to secure the benefit of the lower rates of the Dingley law. I have not examined the details of the importations, but I believe that to be the chief reason for the larger imports of the last few months. But I nevertheless accept them, and accepting them, I find that for the first five months of 1907 we received at the custom-houses $140,111,014.26, and for the first five months of the present year we received from the same source $133,826,712.98.

In this connection, Mr. President, I beg to present, and ask to have printed together with my remarks, a statement of the customs receipts by weeks and months from January 1 to May 31, 1908 and 1909.

The VICE-PRESIDENT. Without objection, the table will be printed in the RECORD.

The table referred to is as follows:

Statement of customs receipts by weeks and months, January 1 to May 31, 1908 and 1909.

	1908.	1909.
January:		
First week	$5,386,660.24	$5,458,190.59
Second week	5,891,829.71	5,725,210.90
Third week	5,655,563.82	5,442,326.37
Fourth week	6,337,552.28	7,193,142.40
Total for January	23,271,605.05	23,818,870.26
February:		
First week	5,188,249.74	6,236,098.39
Second week	4,940,080.59	7,219,032.08
Third week	5,809,092.77	6,296,470.05
Fourth week	6,538,508.11	5,720,809.54
Total for February	22,475,931.21	25,472,410.06
March:		
First week	5,215,638.36	7,565,376.21
Second week	4,757,111.21	6,813,366.90
Third week	5,598,556.67	6,978,472.98
Fourth week	5,583,741.68	7,274,520.38
Total for March	21,155,047.92	28,631,736.47
April:		
First week	4,610,460.75	7,336,209.82
Second week	4,779,296.28	6,594,920.54
Third week	5,683,023.95	6,992,873.05
Fourth week	5,489,279.91	7,107,597.34
Total for April	20,562,060.89	28,031,600.75
May:		
First week	4,235,872.60	6,482,172.65
Second week	4,998,869.59	7,074,365.75
Third week	4,764,849.51	6,380,837.37
Fourth week	5,415,253.15	7,934,719.67
Total for May	19,414,844.85	27,872,095.44
Total for period, January 1 to May 31	106,879,490.92	133,826,712.98
Increase for 1909		26,947,222.06

The receipts for the five months ending with the month of May, 1907, were $140,111,014.26.

Mr. CUMMINS. Mr. President, upon comparison of this table and of the statement that I have made, it will be seen that for the first five months of the present year our receipts are substantially 95 per cent of the receipts for a similar period for 1907. Therefore it is more than fair, as I think, in estimating our revenue, assuming now that the Dingley law were to be perpetuated, for the year 1910 that we shall receive 95 per cent of the receipts of 1907. Applying that proportion, it will be found that we can fairly expect from the custom-houses, upon the hypothesis of the Dingley rates for the year I am considering, $315,621,696.

I now take the original estimate of the Senator from Rhode Island as to the effective difference between the Dingley rates in producing revenue and the rates of the bill under consideration, and add that estimate to the receipts that I have just mentioned, reached by the proportion indicated by the experience of the first five months of the year. I add $8,000,000 to these receipts, and find that we may fairly expect during the coming year a revenue of $323,621,695 from customs. In order to make both ends meet, if we are to come out at the end of the year with no difference between our receipts and our expenditures, we must have four hundred and seventy-nine million and the odd thousands of dollars already mentioned. We therefore must supplement these sources of revenue by additional taxation, which will accumulate how much? One hundred and fifty-six million one hundred and sixty-eight thousand six hundred and sixty-seven dollars and twelve cents. If we do not create some revenue other than the law now authorizes, we shall be, at the end of the year upon which we are about to enter, $156,000,000 behind our expenditures authorized for the same year.

This is not a matter which can be looked upon with unconcern. The deficit, as we have already seen, has decimated our surplus to such an extent that we dare not invade it further. Therefore it is our duty here in some manner or other to raise $156,000,000 by an additional form of taxation.

Mr. President, I have recapitulated this calculation in a table which I ask be inserted as part of my remarks.

The VICE-PRESIDENT. In the absence of objection, permission to do so is granted.

The table referred to is as follows:

Appropriations		$1,044,401,857.12
Contracts authorized		26,080,875.00
Total expenditures to be provided for		1,070,482,732.12
Deduct appropriations for Panama Canal	$37,000,000	
Deduct appropriation for Post-Office Department	234,692,370	
		271,692,370.00
		798,790,362.12
Estimated internal-revenue taxes	255,000,000	
Estimated public-land sales and miscellaneous sources	64,000,000	
Estimated customs receipts	323,621,695	
		642,621,695.00
Estimated deficiency on June 30, 1910		156,168,667.12

Mr. CUMMINS. Mr. President, the only way in which it is attempted to reduce this deficit is by deducting $90,000,000 appropriated at the last session of Congress—$60,000,000 for the reimbursement and use of the sinking fund and $30,000,000 in order to make good the money that has been deposited in the Treasury by the national banks and which has been covered by the Treasurer, I do not say unlawfully—I think probably he has the authority of law for it—but covered by the Treasurer into the general fund; that is to say, the Government of the United States at this moment owes the national banks of the United States more than $30,000,000, growing out of the fact that those banks, in retiring their circulation, have deposited with the Treasurer this sum of money, which has not yet been paid out by the Treasurer of the United States.

I want now to consider the sinking fund. There is a great deal of misinformation with regard to our sinking fund. It is perfectly apparent that the Finance Committee regards our national debt as a permanent institution, never to be paid off. That is the only basis for deducting the $60,000,000 appropriated at the last session. I am not going to enter this morning upon a discussion of the general policy of the Nation, whether it should or should not pay the national debt, but I do know that up to this time Congress has refused to consider the national debt as a permanent obligation, and has insisted from time to time upon such measures as would ultimately extinguish it. If Congress desires to change that policy, well and good; but until it does change the policy neither the Finance Committee nor the Treasurer of the United States can interfere with it in the slightest degree.

Long ago Congress provided that all gold coin received at the custom-houses should be held as a sacred fund for the extinguishment of the national debt and the payment of interest upon it. Long ago Congress declared that there should be

annually set aside a sinking fund of at least 1 per cent in order to pay off our bonds as they might mature or as they might be paid in the ordinary course of financial transactions. I was a little bit in doubt with respect to the matter, for I confess I have no great familiarity with the workings of the Treasury Department. I therefore addressed a letter to the Secretary of the Treasury upon the subject, which I now hold in my hand.

I say, once for all, that nothing that I utter here must be construed into any criticism of the Treasury Department. If the law has not been faithfully and accurately executed, it is by reason of a long-established custom, concerning which I see no great evil, but it is sufficient to say that, in addition to the sinking fund which has been provided for by law, the Secretary of the Treasury has authority to use any surplus funds that he may have in hand, not necessary for the ordinary expenditures of the Government, to retire or pay the bonds of the United States. The law, however, does not give the Secretary of the Treasury the authority, after he has used surplus funds in that manner, to give to the sinking fund credit for the money paid out; nor did the law intend so to do. It intended that as an additional facility for the payment of the national debt; and I agree that the Secretary of the Treasury evidently thinks that he is complying, and the former Secretaries of the Treasury have thought that they were complying fully with the law when they, in a moral way, if not in a legal way, charged up the payments made from the surplus to the sinking fund. I mean they regarded the sinking-fund law as complied with.

I do not intend to read this letter in full. But construed strictly—construed generously, I rather meant to say, because I shall come to the other phase of it in a moment—but construed in the way that Secretaries of the Treasury have construed the law and giving full credit, there is still a deficit in the sinking fund at this time of $119,681,993.99. We are that much behind in the sinking fund as it has been designed by the law—I mean giving credit for the payment of the national debt out of the surplus, and not alone out of the sinking fund. Construed as the law is, the deficit in the sinking fund is $593,000,000. If we had observed, as I think, with entire strictness the law, we would have to appropriate and put aside for the security of our national debt $593,000,000.

Mr. President, these things being true—and they are indisputable—it is not for any member of the Finance Committee to say that he can deduct with one sweep of the pen $60,000,000 intended in part to reimburse the sinking fund.

Mr. DIXON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I do.

Mr. DIXON. What are the provisions of law regarding the sinking fund?

Mr. CUMMINS. As I understand, Mr. President, there are two provisions. One provision requires the Secretary of the Treasury to segregate all the gold coin paid at the custom-houses for import duties to be held as a fund for the payment of the interest upon the public debt and for the final payment of the debt itself. When it is remembered that import duties are payable only in coin, the effect of that can be very readily appreciated. Further, there is a statute which provides that a sinking fund shall be created of at least 1 per cent per year for the payment of the national debt.

Mr. DIXON. One per cent of the customs duties?

Mr. CUMMINS. One per cent of the debt; that is, as I construe the law, in addition to the segregation or separation of the gold accumulated at the custom-houses for the same purpose.

It will be remembered that that law was passed at a time when the credit of the United States was not so secure as it is now; it will be remembered that it was passed at a time when it was very doubtful—at least some people doubted—whether we would ever be able to maintain the gold standard; and, therefore, we wanted to assure our creditors that the gold that was paid to us at the custom-houses upon imports would be used for the purpose of extinguishing obligations that in themselves were payable in gold coin.

Mr. SMITH of Michigan. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Michigan?

Mr. CUMMINS. I do.

Mr. SMITH of Michigan. I think the Senator will also admit that it had just the effect which was intended; that it did strengthen the credit of the Government and did enable us to refund our bonds at a lower rate of interest than would have been possible if this law had not been enacted.

The VICE-PRESIDENT. May the Chair suggest at this time that it is very difficult for the reporters to hear questions when Senators turn their backs upon the Chair. Waiving the question of consideration for the Chair, when Senators face in the other direction, it is very difficult for the reporters to hear Senators. If Senators will bear that in mind when engaging other Senators in debate and will so stand that the reporters may hear their voices, it will make more certain correct reporting of inquiries.

Mr. CUMMINS. Mr. President, I assent to the suggestion made by the Senator from Michigan [Mr. SMITH]. It is very timely and very sound. It did have just the effect that was intended for it, and has always been a fortification to sustain and defend the strength of the national credit; and I see no reason why we should depart from it in any sense at this time. In the time when prosperity crowns all human efforts and when the Nation is advancing with a rapidity never before seen, I doubt the expediency of postponing the payment of the national debt; but I will not discuss that question. I will not say what I would do if it were proposed to postpone indefinitely the payment of our debt, as other nations have done the payment of their debts. All I say is that we must for the present stand firmly by the established order of things.

We must make appropriations to restore our sinking fund to its due proportions, and, therefore, I object to that process of bookkeeping that subtracts $90,000,000 from the appropriations of last year, and which is bottomed upon the idea that it is not necessary to make any provision of that kind.

The national currency fund I have already mentioned. I repeat that, prior to the time that the Treasury Department made its estimates for the last Congress, the debt of the Government to the national banks for money actually deposited by them in the Treasury was more than $30,000,000. Therefore the Treasury Department asked Congress to appropriate $30,000,000 in order to enable it to make that payment; that is to say, in order to enable it to use that fund to retire the circulation as it came in in the natural course of business. I ask at this point to insert the letter of the Secretary of the Treasury as a part of my remarks.

The VICE-PRESIDENT. Without objection, permission is granted.

The letter referred to is as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, June 24, 1909.

HON. ALBERT B. CUMMINS,
United States Senate.

SIR: I have the honor to acknowledge the receipt of your communication of the 23d instant, relative to the sinking fund and the national bank note redemption account, and in reply to advise you as follows:

THE SINKING FUND.

The act of February 25, 1862 (12 Stat., p. 365), contained in section 5 a provision that all duties on imported goods should be paid in coin, and that the coin so paid should be applied, first, to the payment in coin of the interest on the bonds and notes of the United States, and, second, to the purchase or payment of 1 per cent of the entire debt of the United States, to be made within each fiscal year, which was to be set apart as a sinking fund, and the interest of which should in like manner be applied to the purchase or payment of the public debt as the Secretary of the Treasury should from time to time direct; and the sixth section of the act of July 14, 1870 (16 Stat., p. 272), also required that, in addition to other amounts to be applied to the redemption or payment of the public debt, an amount equal to the interest on all bonds belonging to the fund should be so applied. These provisions of law have been heretofore uniformly regarded as imposing upon the Secretary of the Treasury the duty of meeting the requirements of the sinking fund out of the surplus revenues of the Government.

The estimated requirement of $60,000,000 for 1910 for the fund, submitted to Congress at its last session, is a charge against the fund for that year to be met as conditions warrant, as shown further on in this letter.

Section 2 of the act of March 3, 1881 (21 Stat., p. 457), provides that the Secretary of the Treasury may, at any time, apply the surplus money in the Treasury not otherwise appropriated, or so much thereof as he may consider proper, for the purchase or redemption of United States bonds, and that the bonds so purchased or redeemed shall constitute no part of the sinking fund, but shall be canceled.

A deficit appears in the sinking fund at the close of the fiscal year 1908 of $549,383,647.68, yet up to that period the total debt had been reduced $32,812,000 in excess of the sinking-fund requirement. The deficit at the close of 1908 will be increased, however, in the current year of 1909 by approximately forty-four millions, which deficit is more apparent than real, for the following reasons:

Debt, less cash, on August 31, 1865	$2,756,431,571.43
Debt, less cash, on June 1, 1909	1,030,129,609.08
Reduction of the debt since August 31, 1865	1,726,301,962.35
Sinking-fund requirements to June 30, 1909	1,845,983,956.34
Sinking-fund deficit as of June 30, 1909	119,681,993.99

So that, instead of an apparent deficit in the fund at the close of the year 1909 of approximately $593,000,000, if the act of March 3, 1881, had in terms permitted purchases and redemption of bonds for the fund, instead of directing that such purchases should not be applied thereto, the present deficit in the fund would be the sum of $119,681,000.

It is apparent that all conditions must be favorable to enable the Secretary of the Treasury to retire bonds for the sinking fund or to make purchases under the act of March 3, 1881. The state of the revenues, of the debt available for redemption or purchase, the market value of securities, are all factors in determining the action of the Secretary in executing the laws wholly or in part.

NATIONAL BANK NOTE REDEMPTION ACCOUNT.

The national bank note redemption account is controlled by section 6 of the act of July 14, 1890 (26 Stat., p. 289), which provides that a national bank desiring to retire circulation and to withdraw bonds in like amount shall deposit with the Treasurer of the United States an amount sufficient to redeem such circulating notes, which sum is covered into the Treasury as a miscellaneous cash receipt, and the Treasurer of the United States redeems such notes from the general cash in the Treasury from time to time as they come into his possession, reimbursement therefor being made to him from the appropriation created by said act, and the balance of such deposits remaining in the Treasury at the close of each month is reported on the monthly debt statement as "debt of the United States bearing no interest," as required by law.

The balance of such deposits on June 1, 1909, amounted to $30,131,227.

The estimate for redemption of the notes of the banks on this account for the year 1910, submitted last year to the Congress, was $30,000,000.

Respectfully, FRANKLIN MACVEAGH, *Secretary.*

Mr. BRISTOW. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Kansas?

Mr. CUMMINS. I do.

Mr. BRISTOW. As I understand from the Senator's remarks, there is 1 per cent per annum of our national debt required to be set aside as a sinking fund?

Mr. CUMMINS. That is what the law says.

Mr. BRISTOW. Then, do I understand that $90,000,000, or $119,000,000 of that fund so accumulated, has been expended for other purposes than the reduction of the national debt?

Mr. CUMMINS. Mr. President, that is the effect of it. There is another provision, however, which the Senator from Kansas ought not to overlook, and that is that the 1 per cent provision operates together with the command that the receipts of the custom-houses shall be regarded as a sinking fund. The whole subject can be very readily seen by the letter of the Secretary of the Treasury, which shows a deficit of $119,000,000, construed according to the payments that have been made upon the national debt as from the sinking fund, and $593,000,000 if we exclude those payments which have been made from the surplus, rather than the sinking fund.

Mr. BRISTOW. Now, may I inquire for what purpose was this $119,000,000 expended?

Mr. CUMMINS. It was expended, I assume, by warrants on the general fund. I am not able to say how the payments were made. As a matter of fact, it is all bookkeeping. I assume that the money is all in the same place. They keep a sinking-fund account, and it is that account which shows the deficit that I have endeavored to describe.

Mr. BRISTOW. Has the Secretary of the Treasury the right under the law to appropriate that fund for other purposes—for paying the current expenses of the Government?

Mr. CUMMINS. There may be a difference of opinion about that. I am not willing to assert that the Secretary of the Treasury has violated the law in depleting the sinking fund.

Mr. SMOOT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SMOOT. The Senator certainly knows that the Secretary of the Treasury has paid off or redeemed the indebtedness of the United States to a great deal larger extent than the sinking fund ever amounted to.

Mr. CUMMINS. I do not agree to that.

Mr. SMOOT. The Senator does not agree to that?

Mr. CUMMINS. No.

Mr. SMOOT. I think, if he will investigate the matter, the Senator will find that the debt has been paid off to a greater amount than the sinking fund amounted to.

Mr. CUMMINS. The whole subject is fully explained in the letter which I sent to the desk to be inserted in my remarks.

There is a mystery of bookkeeping about it which is not easy to understand; but, as I have unraveled it, it is this: If the national debt paid out of the surplus is considered, then the Secretary of the Treasury claims that there have been $32,000,000 of the national debt paid in excess of the sinking-fund requirement; but when the table which you will see in his letter is examined, it will be ascertained that, giving to the sinking-fund account all the credits which the Secretary does give to it, there is a deficit of $119,000,000; and then he proceeds to say that, if the bonds which have been retired by the surplus be not counted, there is a deficiency of $593,000,000, or substantially that.

Mr. BRISTOW. So there is an acknowledged deficit of $119,000,000?

Mr. CUMMINS. There is, Mr. President, an acknowledged deficit that it will require more than $60,000,000 to make good for the present year. I am not going into the question as to whether the Secretary of the Treasury has complied with the law or not. I only know that, if we intend to keep the sinking fund intact, we need an appropriation of $60,000,000 that is not to be used for the ordinary expenses of the Government and not to be paid out for the other appropriations that are made, and that, therefore, the Senator from Rhode Island has no warrant for the deduction of $60,000,000 in order to ascertain what amount of money we should raise during the coming year.

Mr. BRISTOW and Mr. SMOOT addressed the Chair.

The VICE-PRESIDENT. To whom does the Senator from Iowa yield?

Mr. CUMMINS. I yield to the Senator from Kansas.

Mr. BRISTOW. Then, the estimate offered by the chairman of the Committee on Finance does not take into account the necessity of raising this $60,000,000 for the sinking fund?

Mr. CUMMINS. It does not.

Mr. BRISTOW. The law requires that $60,000,000 to be raised, though, as I understand.

Mr. CUMMINS. It does; and more.

Mr. BRISTOW. Then I should like some member of the Finance Committee to explain why it is that they arbitrarily deduct $60,000,000 from the money required according to law in making this estimate.

Mr. CUMMINS. There is no reason——

Mr. SMOOT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. If the Senator from Utah desires to explain now, rather than at some other time, I gladly yield to him.

Mr. SMOOT. I have no desire——

Mr. BEVERIDGE. I think it would be a good thing to have that explained right now, if the Senator from Iowa will permit, if it can be explained.

Mr. CUMMINS. I am quite willing that the Senator from Utah shall explain it. First, I should like him to explain why the Treasury Department asked for an appropriation, and to what use the Treasury Department intends to put the appropriation?

Mr. SMOOT. I suppose that every Senator knows that these appropriations are made every year; but they are never paid out; they are never calculated in the amount of money that we are to raise from any source, because they are not to be paid. I do not believe that the Senator from Iowa, upon the floor of the Senate, would insist that that amount of money should be taken out of circulation in this country, put into the Treasury as a fund, and held there for the purpose of redeeming the indebtedness of the United States. Do I understand that that is his position, and that he would do so?

Mr. CUMMINS. The Senator from Utah confounds two perfectly distinct things. The money would not be taken out of circulation any more than it would be taken out of circulation if it were used for the payment of the ordinary expenses of the Government. What I say is that the Government has no right to use this fund for the payment of its ordinary expenditures, but it must keep it on deposit in the banks, or in other secure places, in order that it may be used if it becomes necessary in the payment of the national debt.

Mr. BEVERIDGE. So that if it was kept on deposit in the banks, it would, of course, be in circulation—in the most perfect method of circulation.

Mr. CUMMINS. Precisely.

Mr. BAILEY. Will the Senator from Iowa permit me for a moment?

Mr. CUMMINS. Certainly.

Mr. BAILEY. The provision for which the Senator from Utah [Mr. SMOOT] contends would result in exactly the opposite of what he seems to desire. The Senator from Iowa is right. Under the law, the coin collected from customs duties is set aside, to be applied, first, to the payment of the interest on the public debt; next, to the payment of a part of the national debt; and the balance is then covered into the general fund of the Treasury. If that law is obeyed, this money could not be in circulation, but would have to be held; whereas if it is not obeyed, it goes into circulation exactly like the payments as interest.

Mr. SMOOT. In answer to the Senator from Texas, I will say that I think the Treasury Department hold now that they have paid over $30,000,000 more in redeeming the indebtedness of the United States than the redemption fund amounts to.

Mr. CUMMINS. Mr. President, it is quite true that the Treasury Department makes that claim. That is solely because it has used, at times, money for the payment of the debt that has not been accumulated for that purpose. That, however, does not in the least degree relieve the Treasury Department from the maintenance of the fund. Even giving the Treasury Department the benefit of its own construction, the fund is now depleted by $119,000,000; and charging it with the construction that I know the law must bear, it is depleted to the extent of $593,000,000. There is no question about that. The money is held there just as all other moneys are held in the various depositories of the country.

Mr. OVERMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. CUMMINS. Certainly.

Mr. OVERMAN. I desire to inquire how long this violation of the law, in diverting the fund which should go to the sinking fund in order to pay the ordinary expenses of the Government, has been going on?

Mr. CUMMINS. I have not examined the books of the Treasury, but the practice that I have mentioned has been going on for a great many years.

Mr. PAGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Vermont?

Mr. CUMMINS. I do.

Mr. PAGE. I should like to ask the Senator from Iowa to explain to us a little more in regard to the $30,000,000 held to the credit of banks.

Mr. CUMMINS. Mr. President, I shall be very glad to do that so far as I can. I assume that all Senators know that when national banks desire to issue their notes as money or as circulation, they are compelled to deposit in the Treasury of the United States bonds of the United States to secure the ultimate redemption of the notes they issue. When a bank desires to lessen its circulation, or retire any part of its circulation, it is compelled to deposit in the Treasury of the United States the money for the retirement of the notes and the release of the bonds. The Treasury holds that money; and as these notes, which circulate from Maine to Texas, come into the subtreasuries or the depositories of the United States, they are arrested and sent to the General Treasury of the United States, and when they reach the Treasury of the United States they are destroyed.

The money which the banks throughout the country had deposited with the Treasury of the United States at the time the Treasurer made his last estimate and asked for this appropriation, and which had not been used for the purpose of retiring these notes, amounted to more than $30,000,000. That is a debt that is due from the United States to the several national banks. In order to keep that account good, the Treasury Department asked that an appropriation of $30,000,000 be made, in order to enable it to make the payment without further depleting its already sadly depleted general balance.

Mr. PAGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa further yield to the Senator from Vermont?

Mr. CUMMINS. I do.

Mr. PAGE. The Senator is undoubtedly right in the statement of his general proposition. But, as a matter of fact, when a bank liquidates, it must pay back into the Treasury, in order to release its bonds, the full amount of its outstanding circulation. For many, many years it has been understood that the circulation of the banks has, year by year, been destroyed. It has been burned up; thousands and perhaps millions of dollars have gone to the bottom of the sea. While it is really a debt the Government owes to the national banks, nevertheless, under the national-banking act, the national bank does not get the benefit of the destruction of its own notes; but the Government is entitled to that profit.

Mr. CUMMINS. I am not talking about the loss of notes. I am talking about the redemption of circulation.

Mr. PAGE. But the Government does not have to redeem a bank note that is at the bottom of the sea or that has been burned up.

Mr. CUMMINS. Mr. President, this appropriation is not made to make good any losses that may occur by accident. It is made solely to enable the Government to redeem notes that the banks desire to retire. Suppose a bank with a circulation of $100,000 comes to the conclusion that it only wants $50,000 of circulation; and therefore it deposits with the General Government $50,000, and says: "Retire our notes to that extent." These losses that may occur by accident merely are negligible. The Government is under no obligation with respect to them; and no appropriation has ever been made to reimburse the Government for any such thing.

Mr. PAGE. But perhaps the loss is not negligible, if there have been $30,000,000 of losses. While this is a debt in fact, as a matter of fact it may be further said that it is a debt the Government never expects to pay, and never will pay, because it will not have to redeem notes that do not exist. I may be wrong about it; but that is my idea of the condition.

Mr. CUMMINS. The Senator from Vermont is wholly wrong with regard to the purposes of the appropriation. He is entirely right with regard to his analysis of the relations between the Government and the banks with respect to notes that may be lost by casualty.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I do.

Mr. NELSON. Mr. President, I should like to see if I understand the Senator from Iowa. Do I understand him that, giving to the tariff bill credit for all that the Senator from Rhode Island claims for it in the way of revenue, we shall need $150,000,000 more, aside from what the bill will produce, taking his figures for it?

Mr. CUMMINS. We shall need $156,168,667.12.

Mr. NELSON. And the theory is that we must provide for that outside of the tariff bill? Is that the contention of the Senator from Iowa?

Mr. CUMMINS. That is my proposition.

Mr. NELSON. That we must provide in some way for $150,000,000 extra, beyond what we can get from the tariff bill and from our internal-revenue income?

Mr. CUMMINS. That is what we shall need.

Mr. PAGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa further yield to the Senator from Vermont?

Mr. CUMMINS. I do.

Mr. PAGE. The suggestion I wish to make to the Senator from Iowa is that while this debt may be due upon the books of the Treasury Department, it is a debt which will never have to be paid. Consequently, it seems to me that it is unnecessary that we shall provide for it in our annual appropriations, except for the purposes of bookkeeping.

Mr. CUMMINS. The Senator from Vermont is, I think, in error in his conclusions. It is a debt that must be paid. I will put to him this illustration, and I think he will then see very clearly that I am right.

Suppose that on the 1st day of last January the Government had not one cent in its Treasury and the banks had deposited with it $30,000,000 to retire their circulating notes as they came in. It was, of course, the duty of the Government to pay those notes out of the money the banks had deposited. Suppose the United States had not a cent, but had used up all its resources, its money, its general fund. The Senator from New Jersey suggests to me that if the Government did not have any money the banks would not have any. That, however, is a very false conclusion. There have been a great many occasions upon which the banks had money when the Government had none at all, save a debt upon which it did business. But I recur to the suggestion of my friend from Vermont: How would the Government get the money to retire those notes as they came in?

Mr. PAGE. But they would not have to be retired if they have been destroyed.

Mr. CUMMINS. They have not been destroyed. They are a part of the circulating medium of the country, and the banks want to reduce that circulating medium.

Mr. PAGE. But the facts are these, if I may be allowed: It is known that from year to year a certain percentage of these bank notes are destroyed, and that they never will come in for redemption. Consequently, it is not necessary that they be provided for by a special act.

Mr. CUMMINS. The Senator from Vermont is pursuing a wholly different subject from the one I have under consideration. I am not considering the loss of notes by destruction by fire, by shipwreck, or by any casualty of that sort. I am considering the case—and that is the only purpose of this appropriation—in which the national banks of the country have said: "We want to reduce our circulation $30,000,000." They have the right to do it; but upon what terms? By depositing $30,000,000 with the Treasury of the United States. As those notes come into the possession of the Government, in the ordinary course of affairs, the Government is under obligation to pay the holders of the notes the money they call for; and this appropriation is to enable the Government of the United States to do that thing. It is true that instead of taking the specific money we raise by this appropriation the Government may take

any other money that it has. But if it has none, if its general balance is already depleted as far as safety will permit, then we must raise the money to put the Treasury in possession of sufficient funds to make the redemption.

Mr. PAGE. Will the Senator yield to me for just a second?

Mr. CUMMINS. Yes.

Mr. PAGE. I simply wish to reiterate what I have said. I am not sure that I am not mistaken about the proposition, but my understanding of the matter is that while the Government technically owes this $30,000,000, it can depend to a certainty upon the fact that the $30,000,000 will never be asked for, because it has been destroyed.

Mr. CUMMINS. In order that I may be fortified and that we may, at least, have an end of this sort of discussion, I will ask the Senator from Utah whether the purpose of this appropriation is to make good losses of notes by fire and other casualties?

Mr. SMOOT. That is not the purpose of the appropriation. I will say, however, that no doubt the actual results may be as the Senator from Vermont states as to a limited amount, but not as to the $30,000,000. There are, no doubt, many millions of dollars that are destroyed that the Government will never have to pay for; but in making the appropriation that is never taken into consideration.

Mr. CUMMINS. Mr. President, the Senator from Minnesota [Mr. NELSON] seemed to be somewhat astonished when I said that our shortage at the end of the next year will be $156,000,000. It is, however, not very different from the shortage that was acknowledged by the Senator from Rhode Island [Mr. ALDRICH]. It is practically the same amount, except that the Senator from Rhode Island deducted the $60,000,000 for the sinking fund and the $30,000,000 for the national currency, which, as you will observe, reduces the deficit to about $66,000,000. And you will remember that the Senator from Rhode Island admitted that we shall have a deficit at the end of the coming year of more than $45,000,000—nearly $50,000,000, as I remember. I can not recall the exact figures, but my memory is that he said $49,000,000 at that time.

Having considered with, I think, altogether too much length the year 1910, I now pass to the year 1911. How will it be at the end of the year 1911? We have here, of course, no certain basis, as we had for 1910, with respect to the appropriations, for the appropriations for that year are yet to be made.

There is a suggestion that there will be great reductions in the appropriations for the year 1911. I will ask Senators—and I put them upon their honor—with respect to their convictions upon this proposition. How much less do you believe the appropriations for the year 1911 will be than we have already appropriated for 1910? I hope, and I hope earnestly, that the spirit of economy that seems now to so completely animate the Finance Committee and others who are in favor of no supplemental revenue will be carried to its proper end. I want to see the Government economically administered. I will join in every effort made to reduce the expenditures of the Government that will not cripple its energies or prevent it from performing those functions that are necessary to the welfare of the people. I should like to see some of the large salaries reduced. I should be willing to join other Senators in reducing every salary of the Government that is more than $1.500. But we will not reduce those salaries. There is just now—and I am glad to see it—a spirit in Washington that indicates that a man must do a day's work for a day's pay. You have all seen that spirit rise and spread and disappear like the mist before the morning sun. And I do not expect that in the future the Government will receive much more service for the same pay than it has been receiving in the past.

I know that some millions of dollars can be saved. But they are very few millions, when compared with the enormous expenditures that are absolutely necessary. I have seen some suggestion that the appropriations for the army and the navy may be reduced. I hope they may be reduced. But the suggestions I have seen relate rather to a postponement to some other day than to a permanent reduction of the establishments themselves. I have sometimes thought that the propositions for reductions in the army, in the navy, and in the civil establishment can be traced to the same source that was yesterday uncovered by the Senator from Rhode Island, when he declared that the purpose of this amendment is simply to defeat the income-tax amendment.

I can understand with what industry and energy some men are now preaching economy and reform in order to be enabled to say the Government needs no revenue from an income tax. I do not believe the appropriations of the next year will be less than the appropriations of the last year. I believe they will be more than the appropriations of the last year. And if every Senator who believes with me upon that proposition will vote for the general income tax, it will be carried by an overwhelming majority.

Mr. President, with reference to the history of the appropriations, I desire at this point to introduce a table showing the appropriations made by the Government of the United States from the year ending June 30, 1899, to the year ending June 30, 1910. We shall be no better off next year than we have been this year. The character of human nature has not materially changed. The wants of the Government have not been lessened sensibly. And it is idle talk to resist the measure now before Congress, and for which I am speaking, by the suggestion that we shall greatly reduce the expenditures of the Government.

We began for the year ending 1899 with an expenditure of $893,000,000; but that was partly war expense. The next year it was $674,000,000, which was a normal expense for that time. And last session we closed the period of a little more than a decade with an appropriation of $1,044,000,000—a steady, regular increase.

I know we have been extravagant in some things. But the man who hopes that the Government of the United States can be administered for very much less money than we have expended in the past is but pursuing an idle and foolish dream. It can not be done.

Mr. PERKINS. With the permission of the Senator, I will say that in making these appropriations the Committee on Appropriations have only granted about 70 per cent of the estimates made by the different departments of the Government.

Mr. CUMMINS. I am very glad the Senator from California has called our attention to that fact. While I know that the money has not always been expended with wisdom, with care, and with frugality, I believe the several Committees on Appropriations have not appropriated a penny that they did not believe to be necessary for the careful maintenance of the Government.

It will be observed that we have increased our appropriations in these ten years nearly $400,000,000. And why? Because the Government itself is expanding to meet the necessities of a mighty age; because we have found it necessary to do many things that we never did before. Governments are organized to care for the welfare of the people; and just so long as the puissant forces of wrong and injustice continue their ravages upon a defenseless people, just so long must the Government extend its protection.

And it extends its protection and defense only with the expenditure of increasing sums of money. Therefore let us not deceive ourselves with the suggestion that we shall not need additional revenue because we shall be economical. I hope we shall be. Let us make every man who serves the Government give it the full value of the compensation he receives. But we shall never go below the millions that are now required for our establishment, and we shall go beyond that sum from year to year.

Mr. DIXON. Mr. President——

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. Certainly.

Mr. DIXON. The Senator is also aware that the carrying out of the new programme for inland waterway development has not yet been begun.

Mr. CUMMINS. I am coming to that in a minute. I ask to have inserted as part of my remarks a table showing, year by year, the appropriations for the last twelve years.

The PRESIDING OFFICER. Without objection, leave will be granted.

The table referred to is as follows:

Table showing the annual appropriations from the year ended June 30, 1899, to the year ended June 30, 1910, inclusive.

1898–1899	$893, 231, 615. 55
1899–1900	674, 981, 022. 29
1900–1901	710, 150, 862. 88
1901–1902	730, 338, 575. 99
1902–1903	800, 624, 496. 55
1903–1904	753, 058, 506. 02
1904–1905	781, 172, 375. 18
1905–1906	820, 184, 634. 96
1906–1907	879, 589, 185. 16
1907–1908	920, 798, 143. 80
1908–1909	1, 008, 397, 543. 56
1909–1910	1, 044, 401, 857. 12

Mr. CUMMINS. At the same time, and in connection with this table, I offer a table showing the receipts at the customhouses for the same period, in order that the receipts there may be compared with the growing expenses of the Government.

The PRESIDING OFFICER. Without objection, leave will be granted.

The table referred to is as follows:

Table showing the receipts at the custom-houses year by year from the year ended June 30, 1898, to the year ended June 30, 1908.

1898	$149,575,062
1899	206,128,482
1900	233,164,878
1901	238,585,456
1902	254,444,708
1903	284,479,582
1904	261,274,565
1905	261,798,857
1906	300,251,878
1907	332,233,363
1908	286,113,130

Mr. CUMMINS. I now come to the point suggested by the Senator from Montana [Mr. DIXON].

In the $1,044,000,000 that we appropriated last year, not a penny was appropriated for the improvement of our waterways, except as it was necessary to carry on projects or contracts already in existence. Not a penny was appropriated for broadening and widening the facilities we must present to a growing commerce and a burdened people—burdened by reason of excessive charges upon the part of our land transportation companies.

The improvement of our waterways is one of the greatest questions that will be presented to the American Congress in the years to come. Already the people are thoroughly aroused upon it. Already they are demanding, in every form in which people can speak, that their waterways shall be improved so that they may bear their share of the burdens of commerce. And Congress can no more refuse to listen to this demand, which grows louder and more intelligent with each increasing year, than it can refuse to listen to the demands that are made for appropriations for the ordinary governmental facilities. And what will we do?

Mr. OVERMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. CUMMINS. Certainly.

Mr. OVERMAN. I also desire to suggest that there are millions of dollars of just claims against the Government that the Government ought to pay.

Mr. CUMMINS. Well, Mr. President, last session I spent a few minutes in the Committee on Claims; and if the amount of the just claims bears any proportion to the magnitude of the claims presented, the increased revenue I desire will not be sufficient to meet the demand.

However, I have not gone into the subject of claims. I am speaking of the things that are sure to come. It is just as certain that next session, and the session after, and the session after that, we shall be compelled to appropriate large sums for the improvement of our waterways, as it is that time shall go on; and if we do not, we shall be false to our highest duties as the representatives of a great and growing people. More than that, at the last session not a penny was appropriated for any public buildings, except to carry on contracts already made or to complete buildings already in course of construction.

This country can not do without public buildings. It is idle for any man to suggest that we will pass along in the next few years without appropriating anything for public buildings. Year by year, in accordance with the dignity of the Nation and the needs of this people, our buildings will not only multiply in number, but they will increase in the expensiveness of construction.

Mr. DIXON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield further to the Senator from Montana?

Mr. CUMMINS. I do.

Mr. DIXON. I merely call the attention of the Senator from Iowa to the fact that this great programme for economy we have heard here has already resulted in cutting off the appropriations for various commissions that President Roosevelt inaugurated for the conservation of the great natural resources of the country.

Mr. BEVERIDGE. And for the execution of the law.

Mr. DIXON. And for the execution of the law.

Mr. CUMMINS. I was about to reach that point. I know there is a spirit abroad that the Government shall no longer look into the wants of this people. I know there is in some quarters a spirit that we have already done quite enough for these people, and that we ought to return to the old established form in which the Government gave no attention to the new conditions which constantly arise. The Senator from Wisconsin [Mr. LA FOLLETTE] not long ago painted with a glowing brush a picture upon which every Senator ought from time to time to look. It is a picture of revolution in industry. It is a picture of the new force entering American life and American business. It is a picture which is simply a prelude to industrial commercial slavery unless the Government intervenes with its strong arm, and it can not intervene unless it has the information necessary to enable it to act intelligently and wisely.

Therefore there must be from day to day, and from year to year, a continuous investigation of these new conditions in order that we may preserve all that is good in the old and supplement its weakness by all that is strong in the new. These offices or functions on the part of the Government will require from year to year increased sums of money, but these sums of money will return to the people a higher and a surer dividend than any that may be appropriated by Congress or expended by the Government in its ordinary affairs.

Mr. BEVERIDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. CUMMINS. I do.

Mr. BEVERIDGE. While the Senator is upon the subject of a new issue of economy will he take into consideration the fact that one of the first subjects of that would be to cut out the appropriations that Congress has found it necessary to make to aid in the enforcement of the laws against lawbreakers who formerly escaped and also to investigate their lawbreaking? That would be a retrenchment which would be a pretty expensive economy to the American people in the end.

Mr. HEYBURN. If the Senator from Iowa will permit me to ask the Senator from Indiana a question, Where are these crimes being committed to which the Senator would apply this liberal fund? I ask for information.

Mr. BEVERIDGE. There have been several appropriations for the Department of Justice and various other departments to use in ferreting out and procuring evidence to establish what everybody knew to be the commission of crime against the laws.

Mr. HEYBURN. Where do they exist?

Mr. BEVERIDGE. The Senator asks me a question and I am trying to answer. A very celebrated case has just been concluded in St. Louis. A sum of money went for that. Does the Senator from Idaho grudge the money that went for it?

Mr. HEYBURN. I desired to know for information if the Senator has discovered some nest of crime he wanted to expend money on.

Mr. BEVERIDGE. I have not, but they are more frequent, I will say, than I myself would like to see. The Senator knows where they have existed. The Senator knows about the prosecutions that have been conducted. The Senator knows about the great case just concluded in St. Louis. The Senator knows the prosecutions against law violators that have existed for some years.

Mr. HEYBURN. For half a century.

Mr. BEVERIDGE. I do not care to divert the Senator from Iowa to call the Senator's attention to that; but one of the first things in this issue of economy might possibly result in the reduction of those appropriations for the Department of Justice, the Department of Commerce and Labor, and the Interior Department, perhaps. I do not know whether the Senator thinks that would be a reduction that would be in the interest of the American people and of sound public policy.

Mr. HEYBURN. I owe the Senator from Iowa an apology; I did not intend to divert him so far; but it seemed to me there was an implied slander upon the decency and law-abiding character of the American people in the statement that we must provide a vast fund for punishing crime. It did not just strike me as being appropriate.

Mr. CUMMINS. Mr. President, I do not desire to slander the American people or American institutions.

Mr. HEYBURN. I was referring rather to the Senator from Indiana.

Mr. CUMMINS. I had not spoken, either, of any vast fund. But I recur to my former proposition, that every year will find its new duties to be assumed and performed by the American Government; and I care not how economical we may be, greed, avarice, lust for gold and wealth will present day by day their new demands upon the Government for the protection of their victims. If we do not intend to make our Government as strong and good in the future and to meet the conditions of the future as well as the Government has met the conditions of the past, we might just as well abdicate, because there is no chaos so unfortunate and so merciless as the chaos of organized wrong without a government strong enough to repress it.

I am only mentioning these things because they are familiar to all Senators. There is not a Senator here but who knows that the Government must go forward with the development of the times. It can not, without confessing its inadequacy, say that we will expend no money to do more than we have already attempted to do. I do not care at this moment to enlarge upon it. I have only pointed out these things to make it absolutely sure to Senators that you will not appropriate less next year

than you appropriated for the year upon which we are just entering.

There is no Senator here who believes we will. On the contrary, I think I can appeal confidently to their good judgment and intelligent comprehension of the subject when I say—and I want now the attention of the Finance Committee for a moment—that, deducting the postal appropriations, there is no Senator who can conscientiously say that we will appropriate next year less than $840,000,000. That discards the $30,000,000 for the redemption of currency, because I do not believe we will need that sum appropriated again next year, for when this account is once made good, if the books are kept right and the law is observed, it will remain good. We will appropriate not less than $840,000,000, and that includes a very meager allowance for the improvement of our waterways, a very meager allowance for the great commerce of the country, and a very meager allowance for our public buildings. Keep in your mind the figure—$840,000,000. And what will we have to pay it with? We will have an internal revenue under the present plan of not more than $260,000,000.

Mr. MONEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Mississippi?

Mr. CUMMINS. I do.

Mr. MONEY. I would be glad to ask the Senator from Iowa, when he says we will expend $840,000,000, upon what he bases that estimate? The amount is $1,042,000,000 for the next fiscal year.

Mr. CUMMINS. Perhaps the Senator from Mississippi did not understand that I deducted from that the postal appropriation of about $240,000,000, and I have also discarded the receipts from postal sources, and included only the regular, steady deficiency that we make up every year. Eight hundred and forty million dollars, in other words, does not include any appropriation for the Post-Office Department.

Mr. MONEY. Then it does not include, of course, any revenue derived from that department?

Mr. CUMMINS. It does not. The other side of the calculation does not include any revenue derived from that source. I am willing to swell our customs receipts to $340,000,000. The most optimistic of the friends of this measure, it seems to me, can not claim that we will raise more than $340,000,000 from this source. We never raised more than $300,000,000, save in one year. In the year 1907 we received $332,000,000 from customs revenues. The next year we went down to $286,000,000. This year we rise to about $300,000,000, and I have said that in the ensuing year we will receive $320,000,000. I am willing to say that for the year after that we will receive $340,000,000.

What is the result? At the end of the year 1911 we will have received $175,000,000 less than we will have expended or appropriated. I will deduct from that now the $30,000,000, and it will leave the deficit $145,000,000. There is no strength of hope, there is no enthusiast who can, as it seems to me, reduce that deficit one penny below the amount I have suggested. It includes, of course, the $60,000,000, or enough to make still another addition to our sinking fund.

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Nevada?

Mr. CUMMINS. I do.

Mr. NEWLANDS. I understood the Senator to say that our expenditures for the year after next would be about $840,000,000, and that in that estimate he made very meager allowance for the improvement of our waterways and for public buildings. I ask him what allowance he made for each of those items in that estimate?

Mr. CUMMINS. In that estimate I have allowed about $50,000,000 for both.

Mr. NEWLANDS. Not enough by about $40,000,000.

Mr. CUMMINS. I agree with the Senator from Nevada that we will probably appropriate more, that we ought to appropriate more, but I am endeavoring to present a statement here so conservative that it will command the attention of Senators and will give them some reason to think, and not to plunge on, as we have been doing, into sure and certain disaster.

Mr. HEYBURN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. HEYBURN. It occurs to me that in the suggestion which has been repeatedly made by the Senator from Nevada, that we should include in the consideration of this measure the raising of a fund sufficient to carry out the plan suggested by the Senator from Nevada in regard to the inland waterways, and so forth, he certainly must have lost sight of the fact that we could not with any propriety provide for the raising of money to meet conditions that do not exist or are not provided for by existing law. Suppose we were to raise $50,000,000 or $100,000,000 under or pursuant to the legislation now being enacted, and it might lie in the Treasury of the United States five years, and be collected during that time before the legislative department of the Government will provide for its expenditure and provide the means and the methods of carrying out this plan. Does it appeal to the Senator from Nevada or to the Senator from Iowa as a proper method of carrying on the Government to raise a large sum of money in anticipation of a law that may never be enacted or the terms of which are as yet merely in the imagination?

Mr. NEWLANDS rose.

Mr. CUMMINS. I will yield in a moment to the Senator from Nevada to make any response to that suggestion he may desire, but I answer it in this wise: We have not appropriated anything for the army for 1911, we have not appropriated anything for the navy in 1911, or for any establishment, and we are under exactly the same moral obligation to carry forward the improvement of our waterways already begun, already outlined, that we are to sustain the army or the navy. I say it in the eyes of the whole world, if I had to take my choice between the army, as it is now established, and the improvement of the waterways, I would take the waterways all the time.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Massachusetts?

Mr. CUMMINS. I do.

Mr. LODGE. Surely the Senator draws a distinction between existing law which requires an expenditure, which has to be made unless the laws are repealed, and expenditures under a law which has never been enacted.

Mr. CUMMINS. Mr. President, I do draw distinction between laws which are yet to be passed and laws which are already passed. What I say is that we are now providing for the future, and I repeat, while there is a law establishing an army we can disband it if we desire.

Mr. LODGE. We can repeal any law.

Mr. CUMMINS. Certainly.

Mr. LODGE. But the laws are on the statute books.

Mr. CUMMINS. And we have had appropriations for the improvement of our waterways. They are simply appropriations from year to year.

Mr. LODGE. You mean the river and harbor bill?

Mr. CUMMINS. I am speaking of the river and harbor bill. I call them comprehensively the improvement of our waterways. We are under just as much obligation to provide the money that is necessary to carry on that improvement as we are to provide money to maintain the navy or the army.

Mr. LODGE. The Senator takes that view about the river and harbor bill, but I have seen them put over again and again with spaces of two or three years between them. Congress is not bound to make the appropriations, the Senator will find out.

Mr. CUMMINS. I have no doubt that is true, and there may have been river and harbor bills that ought to have been postponed or ought to have been defeated. I am simply speaking of a great enterprise into which the United States Government has entered.

Mr. LODGE. If the Senator will allow me, I understand that entirely. My only distinction is that there are laws upon the statute books requiring certain expenditures which have to be made and for which the Government is responsible until the law is repealed, but about waterways and rivers and harbors laws requiring an expenditure do not have to be made.

Mr. CUMMINS. I appreciate the difference between the two things as suggested by the Senator from Massachusetts; but I wonder if he means because we have no laws which command the improvement of our waterways or create an obligation for the prosecution of the work, therefore we ought not to raise any revenue that may be devoted to that end.

Mr. LODGE. Not at all, Mr. President. I do not mean to say that they are not proper expenditures. What I mean to say is that in making a calculation you calculate what it is necessary to be spent under existing law, and then the other things are provided for as Congress appropriates for them.

Mr. CUMMINS. Precisely; but Congress must appropriate for them.

Mr. LODGE. We appropriated money for the Panama Canal and borrowed money for that purpose.

Mr. CUMMINS. Congress can not appropriate money unless it had the revenue out of which to pay any appropriation which might be made.

Mr. LODGE. Of course Congress decides how the money shall be raised to meet the appropriations.

Mr. BURKETT rose.

Mr. CUMMINS. Allow me to yield first to the Senator from Nevada.

Mr. NEWLANDS. If the Senator will permit me to say just a few words in response to the query of the Senator from Idaho, I wish to say that I understood the Senator from Iowa to be making an estimate of what our expenditures will be in 1911, taking into view the normal increase in the expenses of the Government. I asked him in that connection what estimates he had made for the improvements of our rivers and for our public buildings. His reply was the moderate sum of $50,000,000, which is not an appropriation in excess of the average amount that has been expended during the past five or ten years for rivers and harbors and for public buildings. To that I replied that it was not enough by $40,000,000.

Let me say that there is a demand throughout the entire country for the improvement of our rivers upon some comprehensive plan that will enable their development for every purpose to which civilization can put them, and that that agitation has taken the specific form of a demand for $50,000,000 annually for the improvement of the waterways alone. That demand of the people was recognized in the conventions of both parties last year, and both parties declared in favor of the improvement of our waterways, and had in view, doubtless, the demands made by the public generally.

There is also a demand that our public buildings should be constructed under a system that will take these public buildings out of the spoils system and insure their construction upon some scientific basis through a bureau having in charge that work. It is folly to say that at least $40,000,000 annually will not be required for that purpose. So $90,000,000 in all, it seems to me, can be reasonably foreseen as coming within the range of governmental expenditures within a couple of years for these two purposes.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SMOOT. I should like to ask the Senator from Nevada if I have misunderstood him in the past, because my impression has always been that he was in favor of issuing bonds for the improvement of the waterways of the country?

Mr. NEWLANDS. Not at all.

Mr. CUMMINS. I was about to suggest to Senators not to enter into an argument on that subject. I do not care to have it injected into my remarks.

The PRESIDING OFFICER. The Senator from Iowa declines to yield further.

Mr. CUMMINS. My general conclusion is that the deficit will be $175,000,000 at the close of the year 1911, from which I deduct the $30,000,000 for the currency fund, leaving a net deficit of $145,000,000, which must be cared for in some method. I ask that the table which I have prepared be inserted in my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The table is as follows:

Estimated expenditures		$840,000,000
Internal revenue	$260,000,000	
Miscellaneous sources	65,000,000	
Customs receipts upon the basis already suggested will not exceed	340,000,000	
		665,000,000
Leaving a deficit of		175,000,000

Mr. BURKETT. Will the Senator allow me to ask him a question?

Mr. CUMMINS. Certainly.

Mr. BURKETT. How much has the Senator, since he has not read the table, calculated for permanent improvements like internal waterways and public buildings and those things?

Mr. CUMMINS. I answered that a few moments ago. I only included $50,000,000 for both waterways and public buildings.

Mr. BURKETT. Of course I have not seen the table. Is it the Senator's idea that in estimating the expenses of the Government you ought to include an amount for permanent improvements rather than the interest on them? In short, is it the Senator's idea that we ought to make a tax system high enough to meet the wants and wishes of the people at this time for these internal improvements?

Mr. CUMMINS. Answering the Senator from Nebraska, I will say that until Congress determines to issue bonds for that purpose or those purposes I believe in providing a current revenue sufficient to meet those demands.

Mr. BURKETT. I did not ask the question when the Senator said a few moments ago it is as much the obligation of Congress to make provision for or to include in the estimates of future expenses permanent improvements, the extension of river and harbor improvements and internal waterways, public buildings, and those things, as it is to take care of the War Department. That was responded to by the Senator from Massachusetts with a statement that these departments are provided for by law; that they must go on; and the others are not in that class. The policy of the Government in the past has been that we would take care of these necessary expenses of running on the War Department or the Navy Department, the State Department, the Post-Office Department, and so forth, and when we had a surplus over to do as much river and harbor improvement as we could or as much building as we could, but that has not met the wants of the people. We will continue to do that if we have a surplus. It seems to me it is unfair for the Senator to include in his estimate of expenses any particular item for permanent improvements, because certainly we would not want to enact a tax system here that is going to impose any enormous amount for permanent improvements. We might get the tax system so high as to wreck the whole machinery of the Government.

Mr. CUMMINS. I understand the apprehension of the Senator from Nebraska very well, but the fears which seem to fill his mind do not fill mine. I know that $75,000,000 per year ought to be expended for public improvements in order to serve the people, and the fact that no law has yet been enacted authorizing that expenditure is to me no reason for leaving the Treasury in such a condition that such improvements can not be made. The Senator argues in a circle. He first finds an empty Treasury and therefore there can be no such improvements. He refuses to fill the Treasury by a tax and therefore there can be no such improvements.

Mr. HEYBURN. Mr. President——

Mr. CUMMINS. Our forefathers did not proceed in that way.

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. HEYBURN. I should like to inquire if we are to understand that the Senator would put money into the Treasury in anticipation of legislation for paying it out?

Mr. CUMMINS. You have put money in the Treasury always in anticipation of a law paying it out. How did you make your appropriations for four battle ships or two battle ships? Is there any law that requires us to build a battle ship until you appropriate for it? It is precisely like the waterways. You expected to maintain a navy and therefore you intended to collect a revenue that would enable you to do it.

Mr. HEYBURN. We did not provide the money before we provided for the building of the battle ships. It was done in the one and the same act, out of the general financial plan of the Government under existing laws for raising revenues.

Mr. CUMMINS. Mr. President, does the Senator from Idaho mean to say there is an existing law with regard to building battle ships?

Mr. HEYBURN. There was when we authorized the building of it, because it was one and the same law.

Mr. CUMMINS. Precisely; but when the law was made it collected the revenue out of which the battle ship was constructed. There was no law authorizing the building of that battle ship or any other.

Mr. HEYBURN. The law for collecting the revenue succeeded the law proposing the building of the battle ship.

Mr. BURKETT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Nebraska?

Mr. CUMMINS. I do.

Mr. BURKETT. Mr. President, I do not want the Senator from Iowa to locate me in quite the position he apparently did, as arguing in a circle, as he says, that because there is an empty Treasury, therefore we will not do any of these things. I did not intend to make any such limitation upon the Senator and certainly not upon the Senate. I am one of those who believe that we ought to develop an internal waterway system; I am one of those who believe that we ought to have a comprehensive building plan, and some other things in this country; but I do doubt the wisdom of attempting to levy by taxes on this generation money enough to erect and construct these enormous enterprises.

For example, here is an internal waterway system, estimated variously at as high as $500,000,000. I doubt if it is wise, I doubt if it is right that we should tax this generation for that enormous amount that is for the benefit of all the generations to come. In short, I have a notion that we ought rather to take up these matters of permanent improvement as an individual would do. We should ascertain how much they are going to cost; we should have a comprehensive plan; and then we should properly finance them by providing for the issue of

bonds, or otherwise, as the works are constructed, and let the generations as they come along pay each its due proportion, if it is interested in the improvements, and perhaps provide for enough of a sinking fund ultimately to extinguish the indebtedness. I had no idea of conveying the impression to the Senator that I did not want to continue this system of improvement. I only desired to convey the impression that I would not go with the Senator as far as he might want to go—I do not know how far he wants to go—to the extent of imposing taxes at this time and assessing the burden on this generation for these purposes.

Mr. CUMMINS. Mr. President, of course the Senator from Nebraska asked a question which implied a certain position on my part, and I answered it as I thought it ought to be answered. No question is ever asked here for information. I never knew a question to be asked except to reply to an argument. I was attempting to show the money which we would probably need in the year 1911. I had said that I had included $50,000,000 in that for public buildings and for the improvement of waterways. That did not seem to me to be a very large estimate for the appropriations that we would certainly make. I have not suggested raising $500,000,000 or a billion dollars for the carrying on of these improvements by taxation.

I have suggested a much less sum than has hitherto, at times, been appropriated for that purpose. But the Senate, if it pleases, can deduct the $50,000,000 that I have put into my estimate, and make up its mind that it will never spend a cent for public buildings or for waterways, discard the idea entirely, and you will still be $95,000,000 short when you reach the end of the year 1911; and $95,000,000 is more than is contemplated by the general income tax which has been proposed. You will have a deficit even if you succeed in raising every penny that a 2 per cent general income tax would raise.

I now pass from that; and I have expended altogether too much time upon it; and yet it seemed to me that it was the foundation of it all to show that we needed the money. How should it be raised, or how should any part of it be raised? We have proposed a general income tax. There are some Senators, I know, on this side of the Chamber who fear a general income tax, because they have made themselves believe that in some way or other it would become an enemy to protection, and that we could not maintain an efficient protective law together with an efficient income-tax law. I beg that they will put away any such delusion, for the truth is that if such a law as we have now does not raise the revenue that we need, then an income-tax law, or some other supplemental revenue law, is absolutely necessary in order that we may maintain protection.

Mark my words that it will not be many years until it will be seen that if we are to maintain protection in the United States we must supplement our revenues in some such way. Why? A protective law upon competitive commodities that is properly adjusted will not yield much revenue. If it is adjusted as it ought to be—although that may be beyond the power of man—it will admit little importation upon competitive commodities, because the duty will be placed just at that point that will make it unprofitable for the foreigner to export to this country if our domestic producers are willing to sell at a fair price. Therefore our duties upon competitive commodities must necessarily grow less; I mean the amount collected at the custom-houses must necessarily grow less from time to time. If the law that we have now in course of preparation does what its distinguished author expects it will do, it will lessen the importation of competitive commodities; and as our domestic producers, under the inspiration of the protection given them in the law, shall more nearly absorb and occupy our domestic markets, the importation of those things must grow less and less from year to year, and the duties received at the custom-houses must therefore decrease from time to time just as the protective system becomes more efficient from year to year. Then the friends of protection will be compelled either to lower duties upon competitive products so that they may enter our ports, or to increase the duties upon noncompetitive commodities in order to raise the revenue that is desired. The American people will not long endure the increase of duties upon noncompetitive things. When you ask them to choose between placing the burden of government upon wealth, upon those who enjoy incomes of more than $5,000, and placing the burden of government upon the necessities of life, or even upon the luxuries of life, which they must buy abroad, they will not be slow in answering the question thus put to them. So I say that every protectionist, every man who desires an ally for protection, ought to stand firm for the adoption of some permanent supplement to our revenue.

Nor is the income-tax law inconsistent with the doctrine maintained by Senators upon the other side of the Chamber. Standing, as they do, for a tariff for revenue, it is still true that an income tax, levied upon those who ought to bear the burdens of government, those who are able to bear the burdens of government, will meet even that principle more perfectly than to levy duties upon the things that the people must use, and impose the weight of government only by the rule of consumption. It is consistent with the doctrine of protection, and it is consistent with the doctrine of a tariff for revenue. It bears just the same relation to both that our internal-revenue taxes bear to taxation at the custom-house.

I intend to consider presently the constitutional situation; but I want now, if I have been successful in showing that you are to be met with a deficit, to ask how are you going to meet it? You can not meet it by direct taxation. You know as well as I that the people of the United States would not submit for a single year to a tax levied according to the rule of apportionment. I care not whether direct taxes include something more than land, I care not what they include; but the Senate knows—every Senator knows—that the time has passed forever at which the Government of the United States will lay any tax by the rule of apportionment. Wealth and population have so far separated themselves in the United States that no man is or will be venturesome enough to suggest that a permanent income of the United States be raised by a tax levied according to the population of the several States.

If, therefore, you are not to adopt some form of direct taxation, you are remitted to some form of indirect taxation; and what shall it be? If it is your duty to provide for sixty millions or seventy-five millions or one hundred millions of dollars to meet the necessities of the Government in the next few years, how will you do it? You must adopt one of three general forms of taxation.

You must adopt one of two or more methods. First, there is the inheritance-tax law, suggested by the Senator from Montana [Mr. DIXON]. I say, in passing, that it meets with my entire approval. I believe in the justice of an inheritance tax; I believe that the devolution of property in the course of passing from the dead to the living should bear a reasonable tax, and should in that way restore to the Government some compensation for the protection that has been given it in the course of its accumulation. The income tax that we propose includes the inheritance tax.

I pass from that. Your next recourse is a stamp tax. It has often been resorted to; it has always irritated the people; it is attached or affixed to transactions of all kinds, without any discrimination with respect to the ability of the person who pays the tax to bear it; it is vexatious, and I do not believe that this Congress or the next Congress will desire to reenact the ordinary stamp-tax law. You are then compelled, as it seems to me, to resort to some form of property tax.

I shall presently examine the difference between a direct and an indirect tax, if there is any; but I want you to come with me now to the conclusion that, if there is to be the deficit that I have attempted to point out, Congress must adopt some form of tax upon property, and I am not now attempting to shroud the subject of property with any technicality whatsoever. I am speaking of property in its broad and generic sense, because every Senator here knows that every tax, except a capitation tax, is a tax laid upon property. There is no tax, I care not whether it is direct or indirect, that is not laid upon property, except a poll tax. I am now, of course, disregarding many of the niceties and many of the distinctions between the various kinds of property and rights.

I go one step further. Every tax, no matter whether it be direct or indirect or whether it be a capitation tax, is paid out of property. No tax can be paid unless the man who pays it has accumulated enough property with which to discharge the obligation; and many times, as it seems to me, we wander into a good deal of confusion by failing to discern and to discriminate between these technicalities, and we fall short of reaching the conclusion, which we all must reach, that when the man pays the tax he pays it out of some accumulation that he has successfully made.

Mr. HEYBURN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. HEYBURN. I would like to suggest that this tax itself is property—the thing itself—the tax is property, of course.

Mr. CUMMINS. The Senator means the money with which the obligation is discharged is property.

Mr. HEYBURN. It is of the same character as that out of which it is created.

Mr. CUMMINS. Precisely. There is no doubt about that.

Mr. HEYBURN. I should like to make this suggestion: Of course the Senator will not answer if he does not care to at this time; but would it occur to the Senator, as a reasonable solution, that we first determine the necessity, or whether such necessity exists at all, as that which is sought to be anticipated by these extraordinary methods of taxation? Would it not be well, or, rather, would it meet with the Senator's approval—and I speak only for myself—that we adopt the schedules and let them be in force until a sufficient time has elapsed to test the question as to their revenue-producing character; and then, if we find that the necessity that the Senator is seeking to anticipate exists, take up the three proposed methods and select between them? No evil can happen in the meantime.

Mr. CUMMINS. Mr. President, in answer to the suggestion of the Senator from Idaho, I would agree with him, if the expenditures of the Government that must be met could be brought within the income. I am not asking for the imposition of an income tax to meet even what seems to me the positive obligations of the Government to do the things that have not yet been authorized by law.

Mr. HEYBURN. Will the Senator permit me?

Mr. CUMMINS. In just a moment. I have shown that our income for the next year will be $156,000,000 less than our expenditures already authorized; I have shown that our income for the following year will be $95,000,000 less than our expenditures, even excluding everything that is problematical or uncertain; and I have shown that, even upon the establishment that we have now authorized, we need every penny that can be raised by the income-tax law proposed by the Senator from Texas and myself.

Mr. HEYBURN. Will the Senator from Iowa permit me now?

The PRESIDING OFFICER. Does the Senator from Iowa yield further to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. HEYBURN. Of course that statement is based upon the accuracy of the calculation made by the Senator; but very surprising conditions arise. For instance, last month there was a jump of nearly $5,000,000 in our revenues from customs. There is not any danger, the Senator I am sure will agree with me, in there not being available cash enough in the Treasury under existing conditions, with the present deficit, to meet all calls upon the Government, and the danger that the Senator anticipates is only subject to the calculation made by the Senator from Iowa being correct.

Mr. CUMMINS. Mr. President, I can not agree with the Senator from Idaho with respect to that. The estimates I have made concerning our income are in every instance most favorable to the extent of the income. I have given to the growth of the income the benefit of every doubt, and there is no man who will look into this subject but who will agree with me that there will be, at the end of the year coming, at the end of the following year, and at the end of every year following that, a large deficit unless we supplement the present methods of taxation by other modes or other kinds of taxation.

Now, Mr. President, I pass to what to me is the most interesting phase of this discussion. I have been held here for three hours discussing the financial situation of the Government. I did not intend to occupy twenty minutes with it when I began this address, but Senators will bear me witness that I have not willingly extended my observations upon that subject. They have been necessarily prolonged on account of the inquiries that have been made of me from time to time.

I want now, just for a few minutes, to address myself to the inherent justice of a tax on incomes. It is a subject to which I have given a great deal of thought. It is an important part of the political economy of the world. No Senator can discharge his duty, and no Senator will endeavor to discharge his duty, without looking carefully over the field of history, in order to ascertain how burdens can be best borne and upon whose shoulders they ought to be placed. It is an interesting, it is a fascinating study to endeavor to trace the relation of individuals to the Government and see to what extent they are actually contributing to the execution of the laws which protect them.

I say—and I say it with utmost deference to my friend from Montana [Mr. DIXON], who seems to think that an income-tax law would be defective or inoperative—that, in my judgment, some form of income tax is the first tax that ought to be imposed.

The inheritance tax, of course, is a part of any properly adjusted income-tax law, because the inheritance or the gift or the bequest or whatever it may be is a part of the income for the year in which it is received, and therefore we can not separate the equity and the justice of an inheritance-tax law from the justice of an income-tax law, although in some countries they are divided for the economy and for the efficiency of administration. But an income-tax law ought to be in force in every State. The States, as well as the General Government, ought to raise a large part of their revenues for the maintenance of their governments by a tax upon ability to pay, instead of upon inability to pay; a tax upon fortune, rather than a tax upon misfortune; a tax that rests as lightly upon those who are called upon to bear it as the most trifling weight that can be put into a strong hand.

Senators, I can not conceive how there can be objections to the justice of an income-tax law. It places the burdens where they belong; it discards unproductive property and unprofitable labor, and exacts but a small percentage of gains and profits and earnings actually received. It is impossible to conceive of any injustice in taking a little part of a surplus in hand over and above a most liberal allowance for the maintenance of a family. It exacts not a penny that is in fact needed for either the necessities, the comforts, or the luxuries of life.

I was deeply impressed with a question put the other day to the Senator from Idaho [Mr. BORAH] while he was discussing the income-tax proposition by the Senator from Massachusetts [Mr. LODGE], immediately followed by a question from the junior Senator from New York [Mr. ROOT]. Out of both questions there could be drawn but one inference, and that was a belief on the part of these Senators that property was already sufficiently burdened with the taxes imposed by the Government; that property already bore more than its just weight of the taxes imposed for the maintenance of the laws. Ah, Senators, a little examination will disclose to you the fallacy of that inference, if it was intended to be so drawn. Property pays all the taxes, and, as the Senator from Idaho [Mr. HEYBURN] well suggested, taxes are paid with property.

Mr. HEYBURN. And are property.

Mr. CUMMINS. And out of property. There is no tax that is not in its substance, in its essence, laid in the first instance upon property itself, although it takes on various and divers forms; but if it was intended by the suggestion to have Senators believe that property which has been accumulated in the hands of a few bears more than its just share of the burden, then I dissent from the proposition. If it is intended to infer that the accumulations of the property bear an unjust or disproportionate share of the taxes, I dissent from the inference.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. HEYBURN. The tax provided for in the amendment under consideration by the Senator is an excise tax. It is a tax, a proportion, cut out of something.

Mr. CUMMINS. I will come to that presently. That is a mere figure of speech.

Mr. HEYBURN. What I said to the Senator was that the tax itself is property. The Senator, I think, did not understand me accurately. As the right of taxation is property, so the tax is property cut out of the other.

Mr. CUMMINS. If that is what the Senator meant, I entirely disagree with him. The right to tax is not property, because the right to tax is a sovereign right and is not a property right. If he means the right of the Government to say that I shall contribute $10 to the support of the Government is property, I can not agree with him.

Mr. HEYBURN. That is sovereignty. But what was the character of the right of tithes, which was the first and original tax, so far as we know? Was that sovereignty or was that property?

Mr. CUMMINS. It depends entirely upon how the obligation to pay tithes arose. If it was imposed as a sovereign act, it was sovereignty. If it grew out of a contract, either express or implied, it may be considered as property.

Mr. HEYBURN. Does the Senator know whether it was a gross or a net tax?

Mr. CUMMINS. I do not intend, Mr. President, to enter upon the discussion of these questions.

Mr. HEYBURN. I thought the Senator referred to it.

Mr. CUMMINS. They are entirely apart from the subject I am now considering. I shall be glad, at some other time, to take up that interesting discussion.

Mr. HEYBURN. I should not have interrupted the Senator except that he referred to the statement I had made.

Mr. CUMMINS. Very well. I make no complaint whatever of the interruption. In fact, I shall be glad at any time to have any supporter of the proposition made by the Senate committee interrupt me. That is the trouble, the Senator from Idaho does

not believe in that proposition any more than I do. I should like to have somebody who does believe in it question some of the propositions I announce.

I was about to pursue the train of thought that came into existence with the question of the Senator from New York the other day. He asked the Senator from Idaho if he did not think property was already heavily taxed. I do not remember the answer of the Senator from Idaho; but I answer that question in the affirmative, and I make my statement so broad that no one can question my sincerity. I think, in that sense, property pays all the tax.

But what it was intended that we should believe was that the men who do not succeed in accumulating any property that finds its way to the assessment roll pay no part of the tax, and only those who have been successful in retaining the property they have earned or received in some fashion pay any part of the tax.

This inference is a grave error. The Senator from Massachusetts intensified it when he said that in Boston there were 110,000 voters, as I remember the statement, and but 17,000 taxpayers. And he was arguing, or intended to argue, that all the burdens of Government, the taxes, rested upon the 17,000 men who had been so fortunate or unfortunate as to find their names upon the tax rolls, and that the other 90,000 men or more contributed nothing to the support of the Government except that part which they contributed in the increased price of the things they consumed, the price of which had been raised by virtue of some tax laid upon those commodities by the Government.

I repudiate that inference. I affirm that these men, nameless so far as the tax roll is concerned, bear more than the share represented in their consumption of things taxed by the General Government at the custom-houses. And I shall prove that, so that no person here will gainsay it.

I can imagine some workman, after his hours of toil, mounting a street car to reach his lowly home. Before he can ride he is compelled to contribute to the street railway company 5 cents, probably, as his fare. The street railway company is on the assessment roll—probably underassessed, but it is, nevertheless, on the assessment roll. The workman is not upon the assessment roll. But will any Senator dare to declare here or elsewhere that when the workman pays his 5 cents for that passage he does not at the same time pay a part of the taxes that are assessed against the street railway company?

I can imagine another instance: I can see the same unassessed, unknown atom of humanity, who can not get on the assessment roll, whose fortunes have relegated him to obscurity, and whose earnings are all consumed in the maintenance of his family, in the act of paying a few dollars to his landlord for the rent of the month that is past or the month that is to come. The name of the landlord is on the assessment roll, and a part of his taxes are the taxes upon the tenement the workman occupies. But will any Senator insist that when he pays his rent he is not paying a part of the taxes of one of these 17,000 men?

Mr. CRAWFORD. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from South Dakota?

Mr. CUMMINS. I do.

Mr. CRAWFORD. If the Senator will permit me, I will say that if the street car which carries the poor man charges more than a fair consideration for the ride, I think it may be legitimately argued that the excess contributes to a tax or something else. But if we assume that he gets the worth of his money in exchange for his nickel, if he gets a ride worth 5 cents, then is it not true that he receives the value of his 5 cents and contributes nothing to the payment of taxes? And the same in the case of rent: If the poor tenant occupying a flat is paying an excessive rate, one which is above what is reasonable or just, then I concede the Senator's contention—and I have considerable sympathy in this matter with the standpoint of the Senator. But unless it is an unreasonable or excessive charge for rent, does not the tenant receive full consideration for what he pays? And therefore is it not true that there is in the transaction no element of the payment of a tax?

Mr. CUMMINS. I gladly answer the Senator from South Dakota. He has confounded two perfectly distinct things. My argument is based entirely upon the proposition that the man pays no more for the railway service than it is worth, and that in paying the rent he pays no more than it is fairly worth. And I will show the Senator from South Dakota why.

The street railway company—I am sorry to get out on these bypaths, but I can not help it——

Mr. CRAWFORD. I do not want to lead the Senator away from his argument.

Mr. CUMMINS. I want the Senator from South Dakota to see the real truth about this, and to measure my argument according to its proper worth. The street railway company is entitled to charge a sum that will pay, first, all the expenses of operation; second, all the expenses of maintenance; and, third, a fair return upon the capital invested. That is the amount, whatever it may be, that the street railway company is entitled to charge. One of the items of expense, one of the items that must be deducted before you reach the sum that is distributable among the investors in the street railway company, is the item of taxes. Therefore, assuming that the rates are fairly and equitably adjusted, every man who rides upon the street railway contributes something, first, to the expense of operation of the property; second, to the maintenance of the property; third, to the taxes that have been levied upon the property; and, fourth, to the reward which is to be returned to capital.

Mr. CRAWFORD. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa further yield to the Senator from South Dakota?

Mr. CUMMINS. Certainly.

Mr. CRAWFORD. I shall not ask the Senator to discuss in further detail that proposition. I simply wish to remark that in that view of the matter, in every transaction between two individuals one assists the other in the payment of his taxes.

Mr. CUMMINS. Precisely; the Senator is quite right. Every tax is, in a measure, shifted. The whole framework of commerce is made up in that way. I am simply attempting to show that the man who is not on the tax roll pays part of the taxes of the community, just exactly as he pays them if he walks into a store and buys some goods. The merchant is on the assessment roll; but the price that the man who is not on it pays for his goods helps the merchant to pay his taxes as well as all other expenses incident to the business.

So it is not fair to assume, because property is taxed, and it only is taxed—for I do not think anything but property is taxed—that, therefore, the men who have accumulated no property, and are not assessed for taxation, bear no part of the burdens of government, and pay no part of the taxes which support the Government. I think the man who receives $1.50 a day or $2 a day or $2.50 a day—I care not what the sum may be—and who finds it necessary to expend his entire wage in order to maintain himself and his family, bears a vastly greater proportion of the burdens of government than the men who are fortunate enough to accumulate the property of the world, and whose names are, therefore, prominent upon the tax roll.

I now pass to another subject. I do not intend to consider it at very great length, because it has already been discussed by the Senator from Texas in an address which, for profound analysis and comprehensiveness, has rarely been equaled; also in an address by the Senator from Idaho, who explored every nook and cranny and corner of the subject, and who built upon the truth of history as enduring a structure as I ever heard reared by pure reason. He was followed by the Senator from Utah, who, in a bad cause, exhibited as much power in forensic discussion as we have seen during the whole session. I do not now intend to go through carefully the constitutional features of an income tax. I can not, however, refrain from passing hurriedly over the history of the last hundred years, and presenting it from my view point.

The Senator from Utah in his address said that when Rufus King, in the Constitutional Convention of 1787, asked, "What is the precise meaning of direct taxation?" no one answered him; and he thought that fact had much significance. I agree with the Senator from Utah with regard to the significance of that silence. Rufus King asked the question, and no one answered him simply because no one could answer him. It is a question that never has been answered; it is a question that never will be answered.

Without pursuing the history of our Constitution, I will state that it provides that direct taxes must be apportioned according to the population of the several States. What is direct taxation? At the time of the Constitutional Convention in 1787 there had been, so far as I know, but two writers who had ever referred to any discrimination or distinction between direct taxation and indirect taxation. One of them was an English writer and the other was a French writer. I do not know whether or not our forefathers had read their works, which had not long been published. It may be that they had read them. But if they had, they gave them no concrete and precise idea of the difference between direct taxation and indirect taxation. Not a member of the Constitutional Convention could answer the question. Each one, no doubt, had his own view of the application of direct taxes so far as his own colony

was concerned, but he could not rise and give a definition of direct taxation. Not one writer out of the hundreds who have busied themselves in the field of political economy since that time has given a definition of direct taxation. There is not a Senator in this Chamber—there would not be if every seat in the Chamber were filled—who can give a definition of direct taxation, because there is no essential difference between indirect and direct taxation.

Mr. SUTHERLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SUTHERLAND. As I understand it, the Senator is discussing the meaning of direct taxation in the abstract.

Mr. CUMMINS. No; I have not yet gotten to that. Do not force me to go faster than I can go.

Mr. SUTHERLAND. I was going to ask the Senator whether or not he conceives that there is a difference between the meaning of direct taxation, generally speaking or speaking in the abstract, and the meaning of the term "direct taxation" as used in the Constitution?

Mr. CUMMINS. Answering the Senator from Utah, I will say that I do not recognize that direct taxation and indirect taxation have any definition in the abstract. I do recognize that the words "direct taxes" were used in a certain sense in the Constitution, and I recognize that the courts of the country, and especially the Supreme Court, had but one thing to do, and that was to ascertain what meaning should be attached to that phrase as it was used in the Constitution.

Mr. SUTHERLAND. Does the Senator agree with his colleagues upon this question—that the term as used in the Constitution simply means a land tax and a capitation tax?

Mr. CUMMINS. I do.

Mr. SUTHERLAND. If so, then he must conclude that that was the meaning attached to it by the framers of the Constitution.

Mr. CUMMINS. I have so concluded.

Mr. SUTHERLAND. Then let me ask the Senator this question: If the description of the tax was so simple as that; if it simply meant a land tax and a capitation tax, why was it that some member of the constitutional convention did not so answer the question propounded by Rufus King?

Mr. CUMMINS. I assume that the reason no such answer was made was that to say that the words "direct taxes" embraced only a land tax, and a capitation tax would have been no definition of the term. It would have been no answer to the question.

Mr. HEYBURN. Will the Senator permit me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. Certainly.

Mr. HEYBURN. I should like to submit this definition, among the others, for consideration:

> It is also said that the tax is direct because it can not be added to the price of the thing sold, and therefore ultimately paid by the consumer.

I think that is the best definition I have ever heard. That is by Mr. Justice Peckham.

Mr. BORAH. Will the Senator yield to me?

Mr. HEYBURN. I can not yield, because I am merely speaking by courtesy of the Senator from Iowa.

Mr. CUMMINS. I yield to the Senator from Idaho.

Mr. HEYBURN. I simply wish to give the reference. That is the language of Mr. Justice Peckham, in Nicol *v.* Ames (173 U. S.), and it strikes me as being the clearest-cut definition that has ever been given.

Mr. BORAH. I was going to ask my colleague what would become of the decision of the case in an attempt to reconcile it with the income-tax decision, if that definition is to be accepted?

Mr. HEYBURN. With the permission of the Senator from Iowa, I will simply say that I had no intention of going further in the analysis of this question at this time, because of the fact that I am only speaking by the courtesy of the Senator from Iowa. But the question propounded by my colleague is an interesting one, and at some time, subject to the weather and to the patience of my colleagues, I hope to submit some views upon the question.

Mr. BORAH. I do not disagree with the definition given by my colleague. I simply say what I said in my argument before the Senate some time ago: That it is impossible to take the definition which has been given by the Supreme Court since the income-tax decision was rendered and reconcile it with the principle laid down in the income-tax case. And if there is anything that is clear to a legal mind it is that the principles upon which the courts have given their decisions since that time are absolutely irreconcilable with the decision in the income-tax case.

Mr. CUMMINS. The definition that has been cited by the senior Senator from Idaho [Mr. HEYBURN] is simply a paraphrase of a great many attempts on the part of economic writers in that direction. In other words, it is said that a direct tax is one that can not be shifted, and an indirect tax is one that can be shifted. The idea, however, is so illusory that it requires but a moment to expose it.

Let us take, if you please, a direct tax upon land. It is said that that is a direct tax because it can not be shifted. But the man who rents the land pays that tax, or a part of it; the man who buys the products grown upon the land pays the tax, or a part of it; because in the end the price of all these things depends upon the cost of producing them.

Mr. HEYBURN. Will the Senator permit me to ask him a question?

Mr. CUMMINS. Just a moment. I pass on to another case, the one I instanced a few moments ago. The tax upon a house and lot is paid by the renter of that house and lot, if it be rented. The tax upon the circulation of banks was held to be an indirect tax. That can not be shifted. The tax upon the income of insurance companies was held to be an indirect tax. That can not be shifted. The tax on inheritances was held to be an indirect tax. That is a tax that can not be shifted. So, you see, the very moment you endeavor to give a definition to the terms "direct taxation" and "indirect taxation" you will be compelled the moment after to admit that the definition includes a great many things that you do not want it to include and excludes a great many things that you think ought not to be excluded.

Mr. HEYBURN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. HEYBURN. It occurs to me that the Senator from Iowa is making a very excellent argument in the support of the conclusions of the Chief Justice and the other members of the Supreme Court in the Income Tax cases.

Mr. CUMMINS. I shall presently come to that.

Mr. HEYBURN. I think the Senator may have overlooked the point of the decision I read. The merit of it is that it explains what is meant by "direct," and gives an illustration. That is the reason I attach so much importance to it.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the junior Senator from Idaho?

Mr. CUMMINS. I do.

Mr. BORAH. It is apparent that if there is any tax that can not be shifted it is a tax upon inheritance. But, nevertheless and notwithstanding, the Supreme Court sustained that tax, holding that it was not a direct tax. That being true, how can it be reconciled with the Pollock case?

Mr. SUTHERLAND. Mr. President, I do not want to take up the time of the Senator unless he is quite willing.

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do; I am quite willing.

Mr. SUTHERLAND. In the income-tax case, the Supreme Court held that the tax was not a tax upon property at all, but that it was a tax upon the privilege of receiving the property passing from the dead to the living, or, in other words, a tax upon the devolution of the property. And so, if the Senator will further permit me, in all of these cases which the junior Senator from Idaho [Mr. BORAH] seems unable to reconcile with the Pollock case the Supreme Court itself has made the distinction that they are not taxes imposed upon the property, but are always taxes imposed upon some right, some privilege, some right to receive property, or something of that sort, and not upon the property itself. I recognize what the Senator from Iowa says—that in one sense all taxes are property taxes—and yet there is this difference: Some taxes are imposed upon property, while other taxes are imposed upon a right or privilege, which may be paid out of property.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield further to the Senator from Idaho?

Mr. CUMMINS. Yes.

Mr. BORAH. The Constitution of the United States does not say that no direct tax shall be laid upon property. It says that no capitation or other direct tax—a tax upon anything that is a direct tax—shall be laid unless in proportion to the census or enumeration, and so forth.

Mr. SUTHERLAND. The point I make about it is that if it is not a tax upon property, using the word "tax" in a very broad sense, it is not a tax within the meaning of the Constitution. Within the meaning of the Constitution it is then a duty or an excise and not a tax within the meaning in which the word "tax" is used in the Constitution.

Mr. BORAH. Of course that is purely arbitrary. What the Constitution says is that no direct tax shall be laid, not that it shall not be laid upon property, but that no direct tax shall be laid except by apportionment. Therefore, when the court held this was not a shiftable tax, at the same time it was a leviable tax without apportionment. I say it is not to be harmonized with the Pollock case.

Mr. FLINT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. FLINT. It is exceedingly warm, and the Senator from Iowa has spoken for some time. I move that the Senate take a recess for half an hour.

The motion was agreed to; and at the expiration of the recess (at 1 o'clock and 45 minutes p. m.) the Senate reassembled.

Mr. BRISTOW. Mr. President, I suggest the absence of a quorum.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clay	Gamble	Penrose
Bailey	Crawford	Guggenheim	Perkins
Beveridge	Cullom	Hughes	Root
Borah	Cummins	Johnson, N. Dak.	Scott
Brandegee	Curtis	Johnston, Ala.	Smith, Mich.
Briggs	Dick	Jones	Smoot
Bristow	Dillingham	Kean	Stone
Bulkeley	du Pont	La Follette	Sutherland
Burkett	Elkins	Lodge	Tillman
Burnham	Fletcher	McEnery	Warner
Burrows	Flint	Nelson	Warren
Burton	Foster	Oliver	Wetmore
Carter	Frye	Overman	
Clapp	Gallinger	Page	

Mr. BACON. I desire to announce that the senior Senator from Tennessee [Mr. FRAZIER] is detained from the Chamber by personal sickness.

The VICE-PRESIDENT. Fifty-four Senators have answered to the roll call. A quorum is present. The Senator from Iowa will proceed.

Mr. CUMMINS. Mr. President, I was a little diverted from the course of my argument by the interruption which took place immediately before the recess. I will endeavor to recall Senators to the point under discussion. I was attempting to show that the term "direct taxes" as used in the Constitution of the United States, when viewed abstractly, has no definition. I had referred to the fact that at the time of the Constitutional Convention, so far as I can now recall, this term had been mentioned by but two economic writers—one, Adam Smith, in his Wealth of Nations, and the other a French writer by the name of Turgot. Their general idea was that a direct tax was a tax upon property or revenue and an indirect tax was a tax upon consumption or expense. But later economic writers have amplified that general idea by supplying the fundamental thought, namely, that an indirect tax was one which could be shifted from the person who was called upon to pay it to another who was to buy the thing upon which the tax was imposed.

I have no doubt that the framers of our Constitution held varied opinions with regard to the meaning of the term "direct taxes." I have no doubt that they thought of this term largely as it had been applied to taxation in their own colonies. But I believe it to be true that a great majority of the framers of the Constitution thought of direct taxes as those imposed upon land with its improvements and the capitation tax. I believe that by far the greater number limited it in their own minds, though little was said about it, to these two objects of taxation.

Because of this vagueness of definition, because of this want of clear, precise application of the term, it was all the more essential; it was all the more imperative that whenever that phrase came before the Supreme Court for interpretation and a construction had been given it as the sense in which the greater number of the framers of the Constitution intended it, and once being applied, a concrete definition once being agreed upon, it should never thereafter have been departed from, because the moment that departure was made from that definition or that application there was no sure, certain resting place.

The very moment that any court drifts away to an application of this term, according to the views of economic writers, that very moment the subject becomes one of pure confusion, for there is no definition, I repeat, of the term from an abstract standpoint that can be applied to the varying cases as they arise in government. It is wholly impossible to be consistent or to be logical with regard to the application of the term if you depend wholly upon the abstractions which may surround it.

I will give an illustration. Adam Smith thought direct taxes were taxes imposed upon the expense or the consumption of the people, and he thought they were equitable and fair, because he assumed that the expense of a particular man or the consumption of a particular man was substantially his revenue, and that a tax upon the consumption of the people would be the equivalent of a tax upon the revenue or the property of those people, a fact which, if true when Adam Smith wrote, has long ago ceased to be true, and therefore is of no value in the present interpretation of the phrase.

However, I repeat that if an indirect tax is a tax upon consumption or expense, what will you say about a tax upon inheritance? Is that a consumption or an expense? What will you say with regard to the tax laid upon the circulation of state banks during the war in order to suppress or to prevent the state banks from issuing circulating notes as money? Was that a tax upon consumption?

Now, mark you, you can not confuse this by saying some of these may be excise taxes or imposts or duties, because they must all fall within the term "indirect taxes." What will you say with respect to the tax upon the incomes of insurance companies imposed as a part of the revenue act of the civil war? The fatal error of the Pollock case, to which I shall come presently, the inherent mistake, was in attempting to apply to the income-tax law of 1894 the exploded notion that in order that a tax shall be an indirect tax it must be a tax that can be easily shifted or it must be a tax upon expense or consumption. That is the reason the Supreme Court in the Pollock case departed from the rule that had been laid down in the many decisions which preceded that case. I may say in passing that the Supreme Court is busily engaged at every convenient opportunity in narrowing the decision in the Pollock case—in discarding it just as fast as it can—because in the case of Knowlton *v.* Moore, that followed the decision in the Pollock case, being a tax upon inheritances, it expressly repudiated the proposition that a tax in order to be an indirect one must be a tax upon expense or consumption.

With this general review of the matter in your mind, I want to call your attention very rapidly to the history of the development of this subject prior to the Pollock case. The first case that came before the Supreme Court was the Hylton case, as you all remember. So much has been said of it historically, so much has been said of it analytically, that I do not pause to consider the composition of the Supreme Court or the composition of the Congress which passed the law. I only say it was a tax imposed upon specific personal property. There is no refinement of reasoning that can escape that conclusion. It was imposed upon carriages kept for use, and therefore it fell upon a tangible species of personal property.

Now, it has been said—and the Supreme Court in one of its decisions, in the Hylton case, said it might be—that carriages could be brought within the Smith definition of an indirect tax, because carriages were consumable by use, and that therefore this might be considered as a tax upon consumption, but evidently the decision did not rest upon any such distinction as that, because if so, the tax upon a house and lot would be an indirect tax, because it was a tax upon a thing that would be consumed by use. A house will wear out as well as a carriage, and I do not think the Senators upon the other side of this question would agree that a tax upon a house and lot was an indirect tax because the house would wear out in the course of time. I do not suppose that they would agree that a tax upon the property of a railway company is an indirect tax because its property will wear out just as rapidly as a carriage of the Hylton case would wear out. We must, therefore, find some other distinction in the Hylton case, and we find it in what was repeated by each justice as he delivered his opinion, namely, that the phrase "direct taxes" must be so construed as to make the Constitution an efficient, workable instrument, and that no taxes can be construed as direct taxes unless they can in fairness and in equity be apportioned among the States according to the population of the States.

If there is one thought dominant in the Hylton case, it is this, and it ought to have been the prevailing and controlling thought of every court as it came to construe the Constitution in this respect: The Constitution was not intended as a vague and a futile thing, and when it said that direct taxes should be apportioned according to population, it meant only those taxes which could in fairness be apportioned. In those days the tax upon real estate was the only tax that could be fairly apportioned. There is some stability in real property—that is to

say, there was some relation in those days between the value of real property and population, and it was thought then that that relation might continue.

Of course now even that has passed away. As I said long ago, there never will be a Congress, unless the very life of the Nation is at stake, that will levy a direct tax. A tax upon land levied now would be intolerable, distributed among the States according to their population. You will never read in the whole future history of the United States a suggestion with respect to levying a direct tax, and whatever taxes Congress does employ must be indirect taxes. Therefore the term "direct taxes" should be limited to the fewest possible objects. So the court in the Hylton case decided that direct taxes embrace nothing but poll taxes and taxes upon land with its improvements.

Mr. SUTHERLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SUTHERLAND. I think the Senator from Iowa is in error in saying that the Supreme Court in the Hylton case decided that the only direct taxes were those imposed upon land and upon polls. No judge of the three who spoke upon that question authoritatively made any such decision. One of the judges said——

Mr. CUMMINS. Mr. President, the citation the Senator from Utah is about to read has already been read in the RECORD more than once. I know perfectly well his interpretation of that case. I have my own, and I would a great deal rather that any answer the Senator from Utah desires to make to my interpretation of that decision should be made at a later time.

Mr. SUTHERLAND. May I ask the Senator, then, what language he finds in the Hylton case that will justify him in saying that they decided this question?

Mr. CUMMINS. I will answer that question. The Senator from Utah [Mr. SUTHERLAND] very cleverly confines his question to the language used by the Supreme Court in the Hylton case. I have not said that any judge said in exact terms in the Hylton case that direct taxes were limited to land taxes and poll taxes. I have said that that was the decision, and I repeat it. The Supreme Court in language said that probably no other taxes were within that term than land taxes and capitation taxes, but they decided that a specific tax upon specific personal property was not a direct tax, and that decision excludes every other species of property from the operation of the term.

It is utterly impossible to conceive any property that can fall within the term "direct taxes" after you pass real estate, unless it be tangible personal property. Therefore, if I show, as the Hylton case does show, that the Supreme Court there decided that a tax upon tangible personal property was not a direct tax, I have proved, it seems to me, to the satisfaction of every reasonable mind that all kinds of property except land are excluded from the operation and interpretation of that phrase.

It to me is a demonstration. It is not possible to name any sort of property upon which the term "direct taxes" can fall except land, if personal property be excluded from the term. Every other sort of property is, as will be universally admitted, farther removed from the notion that we have in our minds when we speak of direct taxes than is tangible, specific personal property.

Therefore from the moment that decision was rendered it was decided that the Constitution intended only to require taxes on land and slaves in those days to be apportioned according to the population of the States. I do not speak of poll taxes, because they apportion themselves without any description or interpretation.

We therefore began in 1796 not only with the expression of the opinion of the several judges that direct taxes were so limited, but we began with a decision which in its terms excluded everything else, if the rule adopted by these judges should continue to be the rule of the United States.

Now, I pass along. I will not refer to the fact that four times Congress found it necessary to levy a direct tax, four times after this decision in the Hylton case. I know the Senator from Utah feels that because in a certain resolution that Congress passed, asking the Secretary of the Treasury for a report where other things than lands were included, therefore, Congress had in its mind that direct taxes might be levied upon something else than land. I will not pause to consider that, because it has already been discussed at sufficient length. I only stop long enough to emphasize the fact that in the four times that Congress since the decision in the Hylton case had occasion to levy a direct tax, each time it limited the direct tax to land, the improvements of land, or, in the early instances, to lands and slaves. There could not be a more emphatic construction of the Constitution and of these decisions, rendered in the early days of the Republic, than the repeated acts of Congress with respect to it.

The question relating to indirect taxation did not arise again until the revenue acts of the civil-war period came under judicial review, for it was not until the war of the rebellion increased the expenses of the Government beyond the ordinary sum that Congress found it necessary to employ this power beyond the point at which it is usually employed, in the imposition of internal-revenue taxes and import duties. Then came the struggle. Congress levied taxes upon a great many things. As I remember it, among other things, upon insurance companies, what would now be called, I suppose, "excise taxes;" and, I think, as they were levied then, they were excise taxes. Out of the exercise of that power there arose, first, the case of the Pacific Insurance Company *v.* Soulé. I believe then for the first time the Supreme Court had occasion to directly examine this question after it had left it in the Hylton case.

What was the act of Congress under consideration? It was an act imposing a duty upon the incomes of insurance companies—all the income of insurance companies. It was assailed on the ground that it was a direct tax. It was not a tax upon consumption; it was not a tax upon expense; but it was a tax imposed upon the property of insurance companies under the guise of taxing—and I am not speaking of it disparagingly—under the guise of taxing insurance companies for the privilege of doing business.

Then the Supreme Court had occasion to examine the validity, the strength, and the soundness of the Hylton case. I will not enter the case further than to say the court put away once, and it should have been for all time, the fallacy that an indirect tax must be one that is levied upon consumption or upon expense; and it affirmed, as it ought to have been for all time, the proposition that a tax levied upon property—for I care not whether it was upon the privilege of doing business or whether it was upon the property itself—was valid. It was so held upon the authority of the Hylton case; and it was so held because the Supreme Court understood that in the Hylton case all kinds of property, except land, had been put away from the operation of the clause providing for direct taxation according to population. I may not recite these cases in order; I only recite them as they come into my mind.

The next case, as I remember it, was Veazie Bank *v.* Fenno. What was it? During the course of the war, and toward the close of the war, it became apparent that it was not wise to allow the state banks to continue their circulating medium. Therefore it was determined that there should be a tax of 10 per cent put upon the amount of the circulating notes of banking institutions. Personally I do not believe the tax was levied for revenue. It was in the form of a tax for revenue, but in fact it was a tax to prohibit the circulation of state banks. Out of that law there came a case to the Supreme Court. Again it became a question of whether such a tax was a direct tax or an indirect tax. Again the Supreme Court was called upon to determine whether it would adopt the rule of the Hylton case or whether it would disregard it, for the tax upon these notes was not a tax upon expense; it was not a tax upon consumption; it was not a tax that could be shifted; it was not a tax that answered any of the abstract definitions of economic writers respecting indirect taxes; and yet again the Supreme Court, upon the authority of the Hylton case, upon the assumption that nothing but land came within the constitutional provision with regard to direct taxes, declared that it was an indirect tax. I believe it put the decision upon the ground that it was an excise tax or duty for the privilege of issuing and using circulating notes as a part of the banking business.

So it went on to other cases. I think the next case was that of Scholey *v.* Rew. There was here involved the validity of the law taxing the devolution of the title to property. Again the Supreme Court sustained the Hylton case; again it announced the principle to which I have referred.

Then came the Springer case, which confessedly decided the exact question which we have now before us, or that the Supreme Court had before it in the Pollock case.

Thus for a hundred years there had been a continuity of decisions sustaining this vital power upon the part of the Congress of the United States to levy a tax upon property, upon income without apportionment. For a hundred years it had been the accepted doctrine that no tax except a land tax need be apportioned among the States according to population. If we are to appeal to the rule stare decisis, I have a better title to appeal to it than those who seem to think that what we propose is in disparagement of the Supreme Court; that we are attacking in some way the confidence that ought to be reposed in that exalted tribunal. I have a better right to appeal to the his-

tory of a hundred years and to the often repeated decisions of the Supreme Court of the United States for the purpose of establishing the stability of constitutional interpretation and instruction than has any man to appeal to the single case decided by a divided court; decided not only by a divided court, but by the opinion of one member of that court; and not only so, but through the opinion of one member of the court—and I say it without the slightest criticism upon his conduct—who changed his views with regard to the subject between the original hearing and the rehearing.

Ah, Mr. President, I have little regard for that sentiment which suggests that it is an indelicate and an improper thing for Congress again to ask the Supreme Court to review the Constitution in this respect. Indeed, I believe that the sentiment grows out of a confusion of two perfectly distinct principles. Every lawyer knows that there is a principle which is expressed in the rule res adjudicata. It is essential to a good, orderly government; it expresses the very voice of government. I agree that when a court of final resort determines a disputed case, that is the end of the dispute so far as the parties to it are concerned; that patriotism and good citizenship require instant and complete obedience to the decree of the court; and that he who challenges it any further than through the established tribunals for approaching the courts is guilty of little less than treason to the laws of his country.

Therefore the parties who were involved in the case of Pollock *v.* The Farmers' Loan and Trust Company are bound by the decision of the court in that case. They ought not to question it; and they do not question it. But there is another familiar rule. It is stare decisis. This is simply a rule of stability; it is a rule of policy; it is a rule that is intended to make decisions uniform, and it is intended to inform and advise citizens of the laws and the construction of the laws which govern them. It is not indelicate, it is not improper, and it is not an offense against propriety for any man to challenge a decision of the Supreme Court in another suit. Our Supreme Court records are full of instances in which the Supreme Court has reversed itself. There is not a supreme court in the land that has not reversed its decisions. It is true that they hold fast to the rule stare decisis; that is, prima facie; that is, unless good reason be shown, they will follow their prior opinions and their prior decisions upon the subject involved; but the rule stare decisis has never yet forbidden a litigant to appeal to any court for a reversal of a rule established in some decision to which he was not a party.

In the twenty-five or thirty years of my practice of my profession, it has happened to me a score of times to advise a client to again invoke the decision of a supreme court, and to ask that tribunal to reverse and overrule a former opinion that I believed to be wrong. It is a constant practice in the profession, approved everywhere, and necessary everywhere, because courts, like individuals, make mistakes; and when their mistakes become obvious and palpable to them, they correct them, and they ought to correct them.

It is just so here. If the Supreme Court of the United States made a palpable error—a clear, manifest error—in the Pollock case, if its subsequent decisions have taken away the very foundation of the structure which was there reared, it is not only proper for Congress again to invoke its powers; not only proper for it again to ask for a construction of this part of the Constitution, but it is its duty to do so if it believes that Congress has the power that was denied to it in the Pollock case. It seems to me a morbid, ill-founded sentiment that is sought to be created that we are in any way impairing the confidence that the people have in their courts or in any way unduly criticising the action of the courts in again affirming that Congress has the power to levy an income tax under the Constitution, not as it is to be amended by the proposition now before the Congress, but through the wisdom and sagacity of the fathers of the Republic and in accordance with a long line of established decisions, unbroken for a hundred years.

Mr. HEYBURN. Mr. President——

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. Yes.

Mr. HEYBURN. Does not the rule go much further, and is not this the rule: That even though the court as at present constituted, had it been dealing with the question originally, might have decided differently, yet if the court as then constituted held a conclusion that was sustained by the law from their standpoint, that this court, even though it would have decided differently, would not disturb it? Is not that the true rule?

Mr. CUMMINS. Mr. President, it is not the true rule. So far as the law is concerned, it does not recognize the changing personnel of courts. It was the Supreme Court when it delivered its opinion in the Pollock case in 1895, I believe, and it is the Supreme Court still. We do not know, and ought not to know, that there has been any change in the membership of the Supreme Court. When I have a proposition or principle of law that I desire to submit to a court, I do not ask what the individual opinions of the judges may be; I appeal to the court as the abstract repository of the wisdom of the judicial branch of the Government, expecting justice, but not expecting to be governed by anything that I may know in regard to the individual character or opinions of the judges.

Mr. HEYBURN. Mr. President, the Senator evidently misunderstood me. I was speaking of the view of the court in regard to the opinions of its predecessors, and not in the view of an outside individual. The court never recognizes any change in its membership, and if any constituted court that preceded has held, upon reasons satisfactory to it, that a law was constitutional or otherwise, then the court subsequently reviewing that decision will not disturb it, even though the personnel has changed. The point of view is very different from that of the members of the court and that of persons outside of it.

Mr. CUMMINS. I think I understand now the suggestion of the Senator from Idaho better than I did a moment ago, but still I am at variance with him. The history of the courts in the United States is full of reversals of opinions rendered at a prior time by a court whose personnel has changed. Human nature does not permit great continuity in the membership of courts; and therefore when a court at a given time comes to consider the propriety of reversing a former opinion interpreting the Constitution or interpreting any other law of the land, I take it that it does it without any regard to the membership of the court.

Mr. HEYBURN. Mr. President, I would suggest this as the rule, as I understand it, that every presumption is against it, and the reason for reversal must be overpowering and all compelling. A court never does reverse itself except where the conditions have changed to such an extent that they are compelled to give a different application to the rule of law.

Mr. CUMMINS. Mr. President, with a part of the suggestion just made I am in entire sympathy. I do not believe that the Supreme Court of the United States ought to reverse a former opinion for light or trivial reasons. I think it is true that it would be necessary to convince it with much certainty; but where the error, as I view the subject, is so palpable as it is in the present case, I have no doubt that when the question again reaches the Supreme Court it will be ruled in harmony with the principles of these hundred years of judicial decisions.

I might just as well at this point speak with regard to the proposed constitutional amendment. I think I shall vote for it; and while I think it is proposed by the committee with exactly the same motive that prompted the committee in proposing the amendment that I am considering, as was acknowledged yesterday by the chairman of the committee, it would seem to place one in opposition to an income tax to vote against it. I believe that the better course would have been to have passed an income-tax law and taken the opinion of the Supreme Court when a case should arise under it, and, if that decision adhered to the conclusions in the Pollock case, to have then proposed a constitutional amendment. That, however, has not recommended itself to the committee, and unless something happens that I do not now foresee, I shall vote for the constitutional amendment. I shall vote for it, however, knowing that it is brought forward here, not by its original author, the Senator from Nebraska [Mr. BROWN], but by its more recent sponsors, simply as one of the instruments to defeat the income-tax provision proposed by the Senator from Texas and myself, and I shall vote for it without the slightest hope that it will ever become a part of the Constitution of the United States.

I know the views of men too well to believe that there are not 12 States in the Union in which an alert and vigilant minority can prevent the adoption of this resolution by the legislatures of those States. If I am living in the years to come, say five or six years hence, and if I am then a Member of this body, while I will not do it with any pleasure, nevertheless I will not deny myself the satisfaction of pointing out the fate of the proposed amendment to the Constitution. In my judgment, you will never hear from it, or much of it, after it has passed this Congress. I say that in order that it may be understood that I vote for it without any expectation that it will ever be effective in sustaining an income-tax law.

I come now to the measure that has been proposed by the committee. I have said all that I desire to say with regard to the income-tax provision which was before the Senate prior to the introduction of the amendment by the committee. I want

now to consider that. I do not like the way it came into Congress. I do not asperse anybody's motives; but I know, and you know, that if it had not been likely that the income-tax amendment that we proposed would have passed the Senate, this amendment would not have appeared. I have a right to say that, because of the avowal of the chairman of the Finance Committee yesterday. I knew something of that kind; but I never would have disclosed on the floor what I had heard in confidence or semiconfidence, had not the admission been made upon the floor. It is here simply because it was necessary to have an instrument of this sort in order to defeat the general income-tax provision.

What is the general income tax? It is a tax laid upon every income, whether of individuals or of corporations, that exceeds $5,000. It is fair; it is just; it makes all men under like conditions contribute equally to the support of the Government. What is the amendment which is proposed by the committee? I shall not now attempt to describe it in technical language. I describe it in commonplace language. With our amendment, every man who had an income of more than $5,000, or every corporation that had an income of more than $5,000, would have been compelled to have paid 2 per cent upon the income in excess of $5,000 for the support of the Government.

And what does the committee amendment mean? Needing a revenue, as we do need a revenue, it proposes that every man who has a share of stock in a corporation, whether he has an income of a hundred dollars or a million dollars, shall pay a part of the expenses of the Government because he is a shareholder in a corporation. It does not observe the essential, the fundamental principle of the taxation which is proposed in the original amendment. It is a mere figure of speech to say that it is a tax upon corporations. So far as taxes are concerned, corporations are mere trustees for their shareholders; and their shareholders must pay the tax. When you levy a tax on a corporation, you are levying it upon either the shareholder or the person who deals with the corporation, who employs it for services, or who buys from it a commodity. One or the other of these classes will bear the tax which it is now proposed to put upon corporations.

But what is it? I believe it is a property tax. I believe it is an income tax. It levies a duty upon the incomes in excess of $5,000 of all corporations with capital stock and of all insurance companies. Disregarding the husks and artificialities with which we surround our legal thought, it simply levies this duty upon the men who have invested their money in the shares of corporations, whether they be rich or poor, whether their incomes are great or small, and upon the contributions of the policy holders of insurance companies, no matter how great or how little those contributions may be or no matter how profitable or unprofitable the ventures may be.

Mr. HEYBURN. Will the Senator permit me a question?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. HEYBURN. I should like to inquire whether there is any difference in regard to the question whether it is a personal or a property tax between the Senator's proposed amendment and the amendment under consideration? Is not the income tax a property tax as proposed by the Senator from Iowa?

Mr. CUMMINS. It is.

Mr. HEYBURN. Then, so far as being a property tax is concerned, there is no difference?

Mr. CUMMINS. If the tax proposed in this new amendment is what I believe it to be——

Mr. HEYBURN. A property tax.

Mr. CUMMINS. A property, an income, tax—it is, from the constitutional standpoint, precisely like the income tax we have proposed. It is subject to the same objection. It is either overridden by the Pollock case or sustained by the previous cases, just as our amendment is overridden or sustained. And if we adopt it and that construction is the one to put upon it, you will meet in the Supreme Court precisely the same objection that is proposed against our amendment.

Mr. HEYBURN. Then, if the Senator will permit me, the only difference between the proposed tax on the income of corporations and that proposed by the Senator from Iowa is in the classification of the subjects of taxation? There is no difference in the principle of taxation?

Mr. CUMMINS. Legally speaking, if I have put the right interpretation upon it, there is no difference. I know very well that those who stand for this proposition of the committee will not agree that it is a property tax; they will not agree that it is an income tax. They pretend, through a method that I shall presently mention, to escape the objection that it is a tax upon property or a tax upon income, and thus avoid the decision in the Pollock case.

I, however, believe that the effort to do so is merely erecting a barricade of words behind which they endeavor to shelter themselves. I shall come presently to the consequences, if it is not an income tax or a property tax. But my first proposition is that it is a property tax, and therefore I say it challenges the decision of the Supreme Court in just the same way, to the same extent, and will meet the same fate when it reaches the Supreme Court as our amendment would experience. I believe that so viewed it is constitutional in so far as the levy of a tax upon incomes is concerned. It has other infirmities which I shall presently point out.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Connecticut?

Mr. CUMMINS. I do.

Mr. BRANDEGEE. I understood the Senator from Iowa to state that the proposed committee amendment is not really a tax upon corporations, but is a tax upon the stockholders or upon the dividends of the corporation. If that is so, is not the same thing true of the proposed income tax upon corporations contained in the Senator's proposed amendment?

Mr. CUMMINS. It is, with this difference: In the amendment I propose if the total income of the shareholder does not reach $5,000, he is then not taxed. It preserves the central, fundamental idea of an income tax. In the case proposed by the committee, if a poor devil has 1 share of stock in a corporation, and it is all the income he has, he is nevertheless taxed. My desire is to relieve the incomes of men to the extent necessary to maintain their families, to support and educate their children, because I believe that they owe a higher duty to their families than they owe to the Government.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New Hampshire?

Mr. CUMMINS. I do.

Mr. GALLINGER. The Senator meant to say, I assume, that if the income in the first place added to other items of income does not aggregate $5,000, the man is not taxed?

Mr. CUMMINS. Precisely—in our case?

Mr. GALLINGER. Yes.

Mr. CUMMINS. That is true. Possibly I ought to correct that. I had it in my mind. The effect of our amendment is that no tax is laid upon a person unless his income from all sources exceeds $5,000; while in the proposal of the committee the tax is laid upon the income of every shareholder of a corporation that has a net income of more than $5,000, without regard to the extent of the individual income, whether that is the only income the shareholder receives or whether he receives other income from different sources.

That is the injustice of this proposal. It is not in accord with the humane civilization of this age. It is not in accord with the modern thought. It totally disregards every advance we have made in these years toward relieving those who are unable to bear the burdens of government from a greater share than is necessary, and giving them, as I said before, the opportunity to devote the first of their energies, the first of their income, the first of their earnings, to a dearer and more sacred object than the maintenance of the Government, viz, the maintenance of their citizenship and the support of their families.

But I now come to another point. Suppose this is not an income tax?

Mr. SUTHERLAND. May I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. Yes.

Mr. SUTHERLAND. The Senator says that so far as the constitutional question is concerned, he thinks there is no difference between the tax imposed by his amendment and the tax proposed to be imposed by the committee amendment.

Mr. CUMMINS. I did not quite say that.

Mr. SUTHERLAND. The Senator certainly said that both are taxes upon property, and that if one is subject to the constitutional objection that it is a direct tax, the other is.

Mr. CUMMINS. That I said.

Mr. SUTHERLAND. Does not the Senator recognize the fact that in the Soulé case the Supreme Court expressly held that the tax was imposed upon the business and not upon the property of insurance companies?

Mr. CUMMINS. Does the Senator want a categorical answer to that question?

Mr. SUTHERLAND. Yes; if the Senator can give it.

Mr. CUMMINS. I do recognize that the tax in the case of Pacific Insurance Company *v.* Soulé was a tax which was laid by law upon the business of insurance.

Mr. SUTHERLAND. On dividends derived from the income of insurance companies.

Mr. CUMMINS. That is, it was laid only upon those corporations that were engaged in the insurance business.

Mr. SUTHERLAND. Now let me ask the Senator if he is familiar—as I have no doubt he is—with the case of the Spreckels Sugar Refining Company, to which the President called attention in his message?

Mr. CUMMINS. I have it right here, open; and I expect to read to you to your heart's content in a very few minutes.

Mr. SUTHERLAND. Will the Senator permit me to call his attention to a single phrase in that case?

Mr. CUMMINS. Do not, if you please, call my attention to any part of the case until I reach it. I shall come to it presently, and then I shall invite any questions the Senator may have to ask. I shall be glad to have them asked.

Mr. McCUMBER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Dakota?

Mr. CUMMINS. I do.

Mr. McCUMBER. I appreciate that there is a good deal of complexity about this slight differentiation between a tax upon property and a tax upon the right to do business; and there is a good deal of rather delicate refinement, it seems to me, between the two.

Mr. CUMMINS. Unnecessary refinement.

Mr. McCUMBER. Yes; unnecessary refinement. I should like to ask this question, which either the Senator from Iowa or the Senator from Utah can answer. The Senator from Iowa states that so far as these two amendments are concerned, the amendment he proposes and the amendment the committee proposes, they are both really a tax upon property. We will take the case of the Senator's amendment, and instead of saying that we shall levy a direct tax upon the income, we will suppose that he should so modify it as to say that we shall levy a tax upon the business and make the basis of it the income; that is, that it shall be proportioned upon the income. What difference would there be, in principle, between that case and the amendment the committee has introduced?

That is a matter that has puzzled me somewhat—to say what the court would decide provided you put the Senator's amendment in that language.

Mr. CUMMINS. Mr. President, the Senator from North Dakota has touched the very heart of things, as he usually does. We could just as well say in our proposed amendment that the tax was levied upon the right to receive and spend income. We could say that it was a tax levied upon the business of receiving income. There is no limit to the ingenuity of man when he attempts to hide the real truth. I have no patience with these nice and unnecessary and extraordinary distinctions.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. BORAH. In view of the suggestion of the Senator from North Dakota, I will state that the Senator from California said yesterday evening that this was not intended as a tax upon the privilege of doing business as a corporation, but a tax upon the privilege of doing business. If that be true, and the amendment is to bear that interpretation, why can you not lay a tax upon the man who engages in the business of buying bonds and collecting interest upon them for the privilege of doing so just as well as you can lay it upon the privilege of conducting a business of any kind?

Mr. CUMMINS. I had thought of another illustration.

Mr. FLINT. I will ask the Senator if that is not just what was decided in the Spreckels case—that that could be done?

Mr. CUMMINS. I will come to that directly. You might just as well levy a tax upon the privilege of being blue-eyed or brown-eyed or white-haired. You might just as well levy a duty upon the privilege of doing business on the north side of a street or the south side of a street. The occupations and the avocations of men and their conditions are capable of infinite variety. There must be, however, as it seems to me, some substantial reason in the classifications in which the legislature indulges.

But I come now, if I can, to again take up the thread of my argument. Assuming for the moment that this is not a tax upon property, that it is not a tax upon the incomes of corporations, and therefore the incomes of stockholders in corporations, but assuming that it is a tax upon something else, what is it upon? According to the answer given yesterday by the Senator from California, it is a tax upon the privilege of doing business. You might just as well say that men should be taxed upon the privilege of breathing.

Mr. HEYBURN. Will the Senator permit me to call his attention to the language——

Mr. CUMMINS. I am coming to that presently. Do not anticipate me. I do like to occasionally spring a surprise upon the Senate.

The PRESIDING OFFICER. The Senator prefers not to yield.

Mr. CUMMINS. But Senators are all so keen and alert that they prevent me from having the opportunity that I very much covet.

Mr. HEYBURN. I regret it. I would not for anything outrun the Senator's mind in this matter.

Mr. CUMMINS. The Senator is, I presume, about to call my attention to the fact that this tax is laid upon their business as corporations.

Mr. HEYBURN. No; I was going to call attention to the fact that the bill names this item; it gives it a specific name. It says, "a special excise tax."

Mr. CUMMINS. Oh, yes; of course. But it does not make any difference what it is named.

Mr. HEYBURN. It may make a difference.

Mr. CUMMINS. It does not; it can not. The character of a tax, the validity of a tax, must be determined by its essential characteristics. It must be determined by the circumstances under which it is laid and the thing or things upon which it is laid. Congress can not make an income tax a special excise tax by so denominating it. It can not make an excise tax a direct tax by so denominating it. We must look further into the subject than the language used by the committee.

I now come back to the question I was considering a little while ago. The Senator from California says this is a tax levied upon the business of corporations. I deny the right of Congress to levy a tax upon the business of corporations as such—that is, merely because they are corporations. I deny the right of Congress to make any classification of that sort. It is an arbitrary one; it is an unfair one. It has no predecessor, and I hope it will have no successor. If you depart from the construction I have put upon it and say that it is not a tax upon the income or the property of corporations, then it is a tax upon the right to do business as a corporation as distinguished from the right to do business as an individual or as a copartnership. You are necessarily driven to that conclusion.

I know that those who will attempt to defend the validity of this tax will say that it is not an income tax, and will say that it is not a property tax. But when they say that, they declare that it is a tax upon the franchises of the corporations created by the several States of the Union—a tax upon their right to do business as corporations. It is not a tax upon the privilege of carrying on the dry goods business; not a tax upon the privilege of carrying on the beef-packing business; not a tax upon the privilege of doing a manufacturing business; but a tax upon the right to do business of any kind as a corporation. And I should like to ask the Senator from California whether I have expressed the real construction and interpretation of the amendment as he views it?

Mr. FLINT. I may state to the Senator what I said last night when I was asked for my construction of this amendment, and that was that it is an excise tax upon the privilege of doing business. It is true that this amendment limits the taxes to certain corporations, and that we have the power to do this is sustained by several cases which the Senator himself has quoted. In one case they selected insurance companies and taxed them; in the Spreckels case they selected two different classes—sugar refineries and oil refineries. In this amendment we have made a classification which includes certain corporations and all insurance companies.

Mr. CUMMINS. Precisely. I think, Mr. President, that I gather the meaning of the Senator from California. But he also is leaning on a very weak and insecure reed. He also is endeavoring to conceal thought with language, instead of using language to express his thought. Congress can not justly levy a tax on business unless it includes all those who are engaged in that business. I deny the right, in fairness, of Congress to levy a tax upon John Smith because he is engaged in the dry goods business, if John Jones is next to him and is doing the same dry goods business without being taxed. That is not an excise tax. I realize that Congress can levy an excise tax upon any specified kind of business, but it must include all persons who are in that business and within those conditions in order that the law may be just and in order that it may answer the fundamental requirements of taxation.

In the present case the Senator from California says we have a tax on the privilege of doing business. Let us see. Here is a corporation, the John Smith Company, carrying on a dry goods business on one side of the street and here is John Jones & Co., a copartnership, carrying on a dry goods business upon the other side of the street. They are doing the same extent of business and making the same profits. I deny the power

of any legislative tribunal to levy a tax on the one as an excise tax without levying it at the same time upon the other. Classifications may be made, but they must be reasonable. They must have some substantial basis to support them.

The real truth is that this is not a tax on business, because corporations carry on the same kinds of business that individuals do and that copartnerships do. It is not a tax on business. I think it is a tax on property. I think it is a tax on incomes. But if it is not a tax on property or on incomes, it is a tax upon the right to do business in a corporate capacity. There is no wit of man that can relieve the proposed law of that construction if it is not a tax on incomes. And if that interpretation be put upon it, there is not a lawyer in the Senate who will insist that it can be done.

Is there anyone here who asserts that the Congress of the United States can levy an excise tax upon the right to exist, the right to do business, of a corporation created by the States? The United States did not create these corporations. It has conferred no authority or power upon them. It may have the power, under certain other provisions of the Constitution, to regulate and supervise them; but it did not create them. It did not invest them with power. The authority to tax involves the authority or the power to destroy, and I should like to know whether there is on the part of any Member of the Senate a belief that the Congress of the United States can, through the medium of taxation, destroy the corporations that have been created by the several States?

Can a State tax the franchise, the right to do business, of a corporation created by the United States? Will any Senator here affirm that the State of Iowa can seize the franchise of a corporation created under an act of Congress and tax it out of existence? If you can levy a tax of 2 per cent upon a corporate franchise, you can levy one of 50 per cent upon it. There is no limit to the power when once it is conceded to exist.

I do not intend to examine the cases upon this point. I know that before my friend the Senator from Idaho shall have finished he will have abundantly satisfied the Senate with regard to that proposition. I have the cases here, or some of them, but I have already occupied so much of the time of the Senate that I do not intend to enter upon them.

I shall content myself with again asserting that this is either an income tax, and therefore subject to all the objections that are urged against the income tax proposed by the Senator from Texas and myself, or it is a tax upon the right of doing business as a corporation, which is simply a synonym for the right to exist as a corporation; and if so, it is condemned by every decision of which I know or with which I am familiar.

I await with a great deal of pleasure the interpretation that shall be put upon this law by its distinguished framer, because I feel sure that if that bold and original navigator escapes Scylla, he will very speedily fall into all the dangers of Charybdis.

Senators, so far from escaping the difficulties you thought surrounded the income tax proposed by the Senator from Texas and myself, the law you have proposed has simply multiplied those difficulties, and, as I think, multiplied them almost infinitely. Some one has suggested that there is another possible construction that might be put upon the committee amendment.

Mr. OVERMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. CUMMINS. I do.

Mr. OVERMAN. If a legislature grants a franchise to three or four men to form a corporation, the State then parts for the time being with a portion of its sovereignty. If this is a privilege tax, is it not indirectly a tax upon the sovereignty of the State?

Mr. CUMMINS. That, of course, lies at the very bottom of the argument I have just been making. It is a general proposition that the State can not tax the instrumentalities of the General Government, nor can the General Government tax the instrumentalities which the State may employ in the exercise of its sovereignty. The United States can tax the property of every corporation in the land; the States can tax the property of every corporation created under an act of Congress.

But Congress can not touch by a tax, the equivalent of a power to destroy, the right to do business as a corporation of an association organized under the law of a State, nor can the State touch with a tax the right of an association of persons organized as a corporation under the law of Congress. These rights are mutual. We have observed them already in the discussion of this question. Everybody concedes that the United States can not tax the bonds of a state government or of a municipal government organized by state law. No more can the State tax the bonds of the United States or any other instrumentality of the Nation. It is by a parity of reasoning that the Federal Government can not destroy a corporation created by the State, nor can the State destroy in that manner a corporation created by the General Government.

But it will be said, and it was suggested here a few moments ago, that this is not an income tax, it is not a tax upon the corporate franchises or the right to do business as a corporation, but it is simply a tax upon the business of corporations. Senators, it is not possible that you will pass a law that will tax the business of corporations and leave untaxed the business of copartnerships and individuals of the same kind, of the same extent, of the same profit. I deny that right of classification.

I want to make my meaning perfectly clear. I agree that the Government can impose an excise tax upon the business of dealing in real estate. I agree that it can impose a tax upon the business of selling dry goods or manufacturing iron or steel. I agree that it can impose a tax upon the business of refining sugar and oil. I agree that it can impose a tax upon the business of transportation. But when it imposes that tax it ought to impose it upon all who are engaged in the business, whatever it may be. You can select for your law, and you will select of course, only those kinds of business which according to your own observation are best able to bear the tax, but that, however, is at your own discretion. But having selected the business that is to be taxed, then all who are engaged in the business must fall within the provisions of your law. If you do not so frame your law, you have encountered not constitutional difficulties, but you have encountered the vital principle of our social compact. There are some things that are higher than constitutions, higher than laws. There is an underlying conception of justice and fair dealing upon which constitutions and laws are founded. If you were to tax the business of one man and not tax the similar business carried on under the same conditions of another man, you would destroy the very principle that brought us together in governmental relations.

Mr. CLAPP. Will the Senator pardon me for an interruption?

Mr. CUMMINS. Certainly.

Mr. CLAPP. I know the Senator is weary; he has made a long speech, and in my humble capacity of judging it is one of the greatest I ever listened to in this Chamber. It is a speech that must have effect. At the risk of trespassing upon the good nature of the Senator and his endurance, I am going to suggest that it seems to me he ought to refer to the cases he spoke of, that they may go out as a part of his speech. I simply make that suggestion to the Senator.

Mr. CUMMINS. Those cases will be inserted in the RECORD. They are to be used and will be used in a very short while by my colleague, the Senator from Idaho [Mr. BORAH]. We in a measure divided this field, although I feel like apologizing to him, because if you estimate the breadth of the field I have traversed by the time I have taken in getting over it, it might be assumed that I had taken the whole subject in my care. But it is not so.

I come now, however, to one of those cases, in answer to the Senator from Utah and the Senator from California. It is said that this amendment finds its justification or its legal defense in the case of the Spreckels Sugar Refining Company against McClain (192 U. S., p. 397). If this case does not sustain the proposed law, then I assume from what I have heard that the Finance Committee will withdraw it from the consideration of the Senate, because we are pointed to this case as the one which discriminates or differentiates the amendment proposed by us from the amendment proposed by the committee, and in the message of the President the only reason——

Mr. FLINT. Mr. President——

Mr. CUMMINS. Excuse me just a moment. The only reason the President gives for preferring the tax upon the net income of corporations as against the general income of corporations and individuals is that he has been led to believe that this case sustains the proposed amendment and will enable the tax laid by it to be collected without litigation, which it might be feared would prevent the receipt of the revenue so much desired from our measure.

I now yield to the Senator from California.

Mr. FLINT. I do not want the Senator to state my views or those of the Finance Committee to be that we rely solely upon the Spreckels case. There are many other cases we rely upon and to which the Senator has referred that we believe sustain the provisions of this amendment. It is true the President of the United States referred to the Spreckels case in his message, and that in the brief remarks I made I referred to it, but I do not want to be understood as saying this is the only case we relied upon. There are other questions raised in the amend-

ment which the Senator has commented on that have been decided by the Supreme Court, not contained in the Spreckels case, that in my opinion sustain every provision of the amendment.

Mr. CUMMINS. I do not believe that there is any decision of the Supreme Court that sustains the amendment. If so, it has never been brought to my attention, and my investigation has not been casual or superficial. I know that the President of the United States has been led to believe that this decision is the one which will enable the law to escape the condemnation of the Pollock case. I know it not only through his message delivered to Congress, but I know it in another way which I do not choose to pursue.

Therefore, if this case is not what it is generally assumed to be, we, at least, must seek further before we vote for a law that we do not believe to be right in preference to one which, although it may have some objection, is fairer and more equitable.

Let us see what this case is. It arose out of the revenue law of 1898. It arose out of "An act to provide ways and means to meet war expenditures, and for other purposes"—if the Senator from California will give me his attention—by which act a tax was imposed upon the gross annual receipts in excess of a named sum of every person, firm, corporation, or company carrying on or doing the business of sugar refining, and so forth.

Do you find any parallel between that law and this? I would not be here insisting upon the unfairness of this amendment if it imposed a tax upon the incomes of all persons and corporations. I would not be here opposing it at least on this basis if it imposed a tax upon all persons, firms, corporations, and companies doing business in the United States, for then there would be some pretense of equality and fairness, some defense for laying the hand of the law upon business and extracting a part of its profits or income.

Mr. SUTHERLAND. Does the Senator from Iowa think that the converse of his proposition is true, namely, that if the tax were laid only upon individuals, leaving out corporations, it would be invalid?

Mr. CUMMINS. I think it would.

Mr. SUTHERLAND. Did not the Senator introduce a bill with that precise effect, laying an income tax only upon individuals, and excluding corporations?

Mr. CUMMINS. I did.

Mr. SUTHERLAND. Did the Senator think that that bill was unconstitutional?

Mr. CUMMINS. I did not. What other question would you like to ask?

Mr. SUTHERLAND. I should like to have the Senator point out the distinction.

Mr. CUMMINS. It is very easy to point out the distinction to one who listens with open mind. To one who hears with a determination to arrive at a certain conclusion, it is utterly useless for me to point out either the distinction or to reconcile the differences. However, there is no inconsistency in the attitude I assume in regard to the income of individuals. I believe all income-tax laws ought to be imposed only upon the incomes of individuals, because corporations are simply the instrumentalities for creating and passing property from the artificial body to the possession of its members, and all the wealth of the country would be so taxed.

I believe it would be unconstitutional to impose an excise tax on the business only of individuals, because that would create the very same discrimination that is created here. When you levy an excise tax upon business or occupation, it must be levied upon those persons, whether they are natural or artificial, who carry on that business. I should like to know whether anybody believes it in the power of Congress to say that John Jones, who may operate a peanut stand down on Pennsylvania avenue, shall pay a tax of 2 per cent on his net income, and leave all the rest of the peanut venders in the United States untaxed? If that can be done, then this proposed law is all right so far as that point is concerned.

Mr. SMITH of Michigan. It might be done as a matter of police regulation.

Mr. CUMMINS. The Senator from Michigan suggests that it might be done as a matter of police regulation. Of course that leads me to another point. If this tax is intended not to create a revenue, but if it is intended for the purpose of supervising and regulating corporations, that is quite a different proposition. I should like to know before we get through with this whether it is proposed through this tax to impose supervisory regulations upon all the corporations of the United States, to determine when and how they shall issue capital stock, when and how they shall issue evidences of indebtedness, what their business shall be, and all other things that concern or pertain to the business of the country. You know there is just a little intimation in the message of the President that that is the end which is finally to be reached. We have in Iowa about 10,000 corporations, and they are of an extent from a thousand dollars to many millions. I think that before the Government of the United States enters upon the work of supervising and regulating all those corporations, as well as all the corporations of all the States, we had better stop and think a while.

Mr. BRISTOW. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Kansas?

Mr. CUMMINS. I do.

Mr. BRISTOW. I did not hear yesterday all the statement made by the Senator from California [Mr. FLINT] in presenting the amendment, but did he state that it was one of the purposes of the amendment to provide means for the regulation of these corporations? Did he give that as one of the purposes of the committee?

Mr. CUMMINS. The Senator from California was not very definite or specific about that. I do not charge him with any such statement; but there is in the message and in some suggestions since just a faint premonition, I can feel it in my bones, that one of the things which will be relied upon to sustain this tax is that it will enable the General Government to reach out and seize for regulation and supervision every corporation that has been organized in the 46 States of the Union.

However, I recall myself and you also to the McClain case. It arose out of a law which was imposed equally upon all persons, corporations, companies, and copartnerships doing certain kinds of business. There is no doubt about the validity of such a tax. It has rarely been questioned—never but once, and that was in the Pollock case. The reasoning of the Pollock decision would deny the authority to levy an excise tax of this character, as I construe it; but gradually the Supreme Court is resuming the old ground. Therefore it affirmed, as it had often done before, the right of Congress to levy an excise tax upon a business, upon an occupation. It is defensible, it is constitutional, for the same reasons that authorize Congress to lay a tax upon liquor, upon cigars, upon dealers in these articles, or upon any other business.

If the Finance Committee will help the insurgents, we will make this law, if you will add our provisions to it, something that will be of avail to the people of the United States, if you are going to use it for the purpose of regulating the business of companies or corporations that need regulation. I understand its office. I am perfectly willing to add to this proposed law the general provision in regard to the incomes of individuals, and then say that every person, firm, company, or corporation that engages in the business of packing beef and tanning hides shall pay 50 per cent of their net earnings.

We have been discussing here lately the duty on hides, and my very dear friend and distinguished Senator from Vermont [Mr. PAGE] felt that we ought to have some way to reach the beef trust; that we ought to have some way to prevent that great combination from entering the tanning business and driving out the independents or those who have been heretofore engaged in the tanning business alone. If you want to use the excise tax fairly for the regulation of corporations, put it on the business of both packing beef and tanning the hides, and you will very soon dissociate those two kinds of business. If you want to regulate the sugar company, it will not be very hard to put a tax upon the net earnings of all persons, firms, and corporations engaged in the refining of sugar. That will curtail the despotic power now exercised by one great corporation. It is the easiest thing in the world, if we have the power to do it. If we can regulate our corporations simply through the medium of taxation, we can destroy every trust in a fortnight. It would be a great deal better for the Finance Committee to turn its attention to the imposition of such a tax upon corporations and the persons who actually need regulation, who are exercising powers that are injurious to the American people, destroying competition and invading our prosperity, than to attempt to levy a revenue tax upon all the little shareholders of all the little corporations throughout the length and breadth of the United States.

This case, Senators, has no more bearing upon the amendment which is now proposed than has the Pollock case. It is simply a tax levied upon certain persons, firms, and companies carrying on a named business. To make this case pertinent, you must hold that the business which is taxed under this law is the business of being a corporation. That is the only uniform thing in the classification, the business of being a corporation; and when you attempt to tax the business of being a corporation you are taxing the franchise, or the right to exist, and your law is not worth the paper upon which it is written.

I pass from the legal phases.

Mr. SUTHERLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SUTHERLAND. The Senator was calling attention, among other things, to the Spreckels case, in answer to a question which was put to him. The part to which the Senator called attention is not the part I had in my mind. The portion of the decision to which I desire to ask the Senator's attention is contained on page 411. It is the language of Mr. Justice Harlan. In distinguishing that case from the Income Tax case, Justice Harlan says:

> Clearly the tax is not imposed upon gross annual receipts as property, but only in respect of the carrying on or doing the business of refining sugar. It can not be otherwise regarded, because of the fact that the amount of the tax is measured by the amount of the gross annual receipts.

I was directing the attention of the Senator to that case for the purpose of challenging his attention to another part of the argument.

Mr. CUMMINS. Yes; I am fairly familiar with that statement by the justice who wrote the opinion. It sustains a tax upon a certain business. I have no doubt about the right of Congress to levy a tax upon business, whether it is a blacksmith, or whether it is a shoemaker, or whether it is a sugar refiner. It is in the wisdom and discretion of Congress to select those kinds of business which can best bear, in its opinion, the burdens of an excise tax. But this proposed law does not tax a business unless it be the business to be a corporation, and when it is driven to that extremity it falls under all the decisions of the Supreme Court of the United States as well as the decisions of the several state courts.

But I pass from the legal aspects of the proposed law, because my argument will be enlarged and supplemented by others. I pass to its justice and equity, and here, Senators, it seems to me I ought to have a sympathetic audience. I do not believe that anybody will accuse me of undue partiality for corporations. Certainly I have not acquired that reputation during my official life. I hope, however, I have not been unfair to corporations. I hope I have not failed to recognize the fundamental rights which they possess, or which the persons associated in them possess.

I rid myself now of the artificial being known as the "corporation." This measure is unjust to the men who invest their money in the stock of corporations. It is not the first time that such a law has been proposed, but never in any country on earth save ours, I am sorry to say. I do not believe that any such flagrant injustice was ever proposed in any other country in the world save ours. I say that with the calmest deliberation. There was a time when it was proposed in Congress. Just such a law was proposed in 1898. It came out of the Committee on Finance as a part of the report of the revenue bill of that year. Substantially the only difference between that proposal and this proposal is that there the proposition was to levy a small duty upon the gross receipts of all corporations instead of the net incomes of all corporations. That law was much more defensible than this, because it was an attempt to levy a duty upon the franchises of corporations; and when you levy a duty upon the exercise of a power you ought to levy it with regard to the extent to which the power was used, and not with regard to the net results of the use of the power. Therefore if you attempt to put an excise duty upon the franchises of corporations, it always ought to be measured by gross receipts instead of net incomes. We put an excise duty upon all retail dealers in liquor. What would you think of a proposition to levy a 2 per cent tax upon the net incomes of retail liquor dealers? That is the same thing precisely. The same principle is employed in that or in any other of our indirect taxes.

But to come back to that old time of 1898, I wish I had the time and the strength to reproduce the scenes of which I know nothing by observation and concerning which I have only read. That amendment came in, and inasmuch as I am the successor in the Senate of a very distinguished man, a man wise in council, not given to exaggeration, not given to imperfect and hasty judgment, I wish I could read you what he said with regard to this very same sort of law that you are asking the Senate now to adopt; but inasmuch as I can not take the time to read it, I ask that the remarks of Senator Allison, upon pages 4930 and 4931 of the CONGRESSIONAL RECORD, volume 31, part 5, be made a part of my address.

The VICE-PRESIDENT. In the absence of objection, permission to do so will be granted.

The matter referred to is as follows:

> Now we come to the large item in the amendments, and that is the provision which taxes every corporation, no matter what its product may be or what the capital may be, upon its receipts, to be stated monthly under oath. I put it upon record as my belief that that single section of the bill will yield from $40,000,000 to $45,000,000. In the first place, it covers every product in the United States that is sold by a corporation, whether that corporation be large or small. It covers everything that is manufactured in the United States if it be manufactured by a corporation, no matter whether that manufacture be annually $1,000 or $1,000,000. They are taxed upon a royalty of one-quarter of 1 per cent upon their gross receipts, which is the amount they receive from their products.
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> Mr. CULLOM. It covers mercantile establishments?
>
> Mr. ALLISON. It covers all mercantile establishments, all trading establishments that are incorporated. It includes every corporation of every name and nature.
>
> Mr. President, I do not intend to argue the question at this moment further than to state the objections I have to the provision. The first is that it creates a great duplication of taxes upon everything produced and upon everything sold. In 1890 the manufactured products of the people of the United States were more than $9,000,000,000, in round numbers. Those products were sold. If you estimate that three-fifths of them—and I have no doubt that is not an extravagant estimate—are made by corporations, you have an annual sale of manufactures in 1890 of $5,400,000,000.
>
> It is fair to assume—and I only say this as giving a basis of my estimate—that all these products will be sold twice afterwards, and will be sold by people who are in some way connected with corporations. I know in the little city in which I live the great body of the business is done under the form of trading corporations and mechanical and manufacturing corporations. It is found that by that method manufacturers and traders are enabled to draw into their factories their mechanics and skilled laborers, and by means of certificates of stock, to give them a share in the product of their factory.
>
> These small corporations have sprung up in every part of our country, and there are no exemptions in this provision. I have no doubt that in my own State there are 500 such corporations which are engaged in the manufacture of butter and cheese. They are the farmers who have aggregated their little capital and subscriptions into $25 and $50 shares. They are thus engaged in this manufacture, and, indeed, I believe that this immense manufacture in the United States is largely carried on in that way by small corporations. There is produced in my State more than $36,000,000 in value of these farm products.
>
> Mr. HALE. May I ask the Senator right there if it is not a fact that within the last ten years it has become a general practice in business for what have been partnerships heretofore and what have been individual enterprises to create themselves into corporations, so that a much larger proportion of business that was formerly private is done under the style of corporations and under an existence as corporations?
>
> Mr. ALLISON. There is no doubt of it.
>
> Mr. WHITE. It is a great misfortune, too.
>
> Mr. ALLISON. There is a constantly increasing use of the general incorporation laws of States in order to engage in competitive occupations, and corporations are largely resorted to. They are resorted to on the idea that there is some special pecuniary advantage in having corporate authority. That can not be the case here. If these taxes were confined to those corporations which are in their nature securing pecuniary advantages by means of an incorporation, there might be a reason for it. I can see a reason why there might be a tax upon the gross receipts of an electric company where there are but one or two in a city, or that might apply to a telephone company where there is but one, or to a gaslight company, and so on.
>
> But here are men in the same city trading. One is J. T. Somebody & Son, and they are engaged in buying and selling groceries. Another across the street is the A. B. Company, engaged in the same business, and the corporations are in the closest competition, but under this proposed taxation people who are incorporated are put at a disadvantage with the person or the partnership that is not incorporated. I will not enlarge at this time on that point, as I have no doubt it will be argued at greater or less length.
>
> The Senator from Wisconsin [Mr. Spooner] gives me a very good illustration of a reason why partnerships have been transferred to corporations under our state laws. I happen to know of a case in my own city where two successful men more than fifty years ago established the hardware trade. They have both passed away. They had children and grandchildren. When their children began to grow up, away along in the sixties, the two men who had been in partnership for many years placed their hardware business into a corporation in order that they might divide among the sons who were engaged with them in the business a portion of the fund, so that when they or either of them passed away the whole estate and the trade and business would not be obliged to be wound up in order to settle the estate.

Mr. CUMMINS. Mr. President, it is sufficient to say that my predecessor opposed it upon the very ground that I now oppose it, although with infinitely more force and persuasion. He pointed out the injustice of it, the inequalities of it, the intolerance of it, better than I possibly can. Every Republican member of the Finance Committee followed him in denunciation of the proposed law. I wish the powerful Senator from Rhode Island would launch the same thunderbolts against this proposed law that he did against that one. I wish the senior Senator from Massachusetts, instead of offering a dummy amendment for the purpose of preventing any further amendment to the proposition of the committee, would exercise his great intellect in analyzing the iniquitous proposition as he did then. I wish the Senators from Maine would speak now as they spoke then. There is not a single Republican Member of the Senate here now, as I remember, but who was opposed to the proposition in 1898 to lay a tax upon the gross receipts of all the corporations of the country; and yet the only difference between that proposition and this is that we substitute now net income for gross receipts. I beg that Senators will take the time to refer to the RECORD of 1898. I can not believe that the intervening years have accomplished such a revolution as is suggested in the amendment now before the Senate. It can not be that wnat was wrong then has become right now, for the essential principle is the same, and the principle of equality of

taxation and uniformity of burden is for all time and for all men. Give me a reason, if you can, why the little shareholder or the big shareholder, either, of a corporation should bear a burden of taxation that does not apply with equal force to every other man in his condition and surrounded by his circumstances.

Mr. SMITH of Michigan. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Michigan?

Mr. CUMMINS. I do.

Mr. SMITH of Michigan. Mr. President, I desire to remind the Senator from Iowa that that law had one great advantage over the one now under consideration. That provision was intended to levy a tribute upon the gross income of corporations; and, as such, it would have gotten a great deal of money into the Treasury, because the gross income of corporations is a matter of very easy ascertainment, while this provision, which is to deal with the net profits of corporations, leaves it within the power of a corporation to dissipate its earnings by betterments and improvements of its property, practically defeating the purpose that seems to be in view.

Mr. CUMMINS. Mr. President, all that the Senator from Michigan states is true. The proposition of 1898 was in many respects superior to the proposition of 1909. If we are to have a franchise tax, if we are to have a tax on business, let it be the tax proposed in the law of 1898, under which the Spreckels case arose; which was also a tax on gross receipts.

Ah, Senators, the amendment that I have just suggested, and which was argued with such superb eloquence and with such strength and irresistible power in 1898, did not become a part of the revenue law. Some time before we have finished it will become necessary, I think, for those who so vigorously opposed that proposition to show some good reason for the change in the faith that is in them. The Senator from Rhode Island does not need to make any explanation, because he frankly says he is opposed to the whole scheme; that he is opposed to an income-tax law; that he is opposed to a corporation tax, and has only employed the corporation tax as a convenient instrument to destroy the other, which seemed to have some chance of passage.

But I pass hastily on. Another fault in this proposed law is that with regard to a large part of the capitalization of our corporations, namely, that part represented by bonds, there is no tax whatever. I should like you to explain why it is that you propose to exempt the men who hold the bonds of the corporations of the country, while laying so severe a burden upon those who own the stock. If there be any difference in the merit of these investments, it ought to be in favor, and is in favor, of the stock rather than the bond, for the stockholders represent the energetic, the vigilant, the enterprising men of the United States. You are taxing their capital, and leaving untouched the inert, the well-guarded, the safe capital invested and represented in the bonds.

Let me give you a little information upon that point. In Moody's Manual for 1908, he brings together about 18,000 of the larger corporations of the United States, not including banks. I have divided these corporations into certain classes, which you will readily understand. First, the steam railways. Our steam railway companies have issued bonds that are now outstanding to the amount of $8,628,552,806. Their aggregate capital stock is $5,279,904,040. That makes an aggregate capitalization of the railways of the land of $13,908,456,846.

Under this amendment all the burden that is placed upon the railways by way of taxation is borne by the $5,000,000,000 of the shareholders and not one penny of it by the $8,000,000,000 of the bondholders. It is true that the amendment provides that the net earnings shall be ascertained by deducting only interest to the extent of an amount equal to the stock; but that makes no difference whatever. No part of the burden is laid upon the bondholder. The limitation just mentioned simply increases the net earnings, the tax upon which is borne by the shareholders. So you say to your countrymen, "We intend to tax the five billions of capital represented by the stock of the railways, and do not intend to tax the $8,000,000,000 represented by the bonds." Everybody knows, with regard to these corporations, that the capital is originally divided into two classes. Their indebtedness is not a matter of accident. All these companies intend that their capital shall be represented by bonds, and not by stock. How you will defend a proposition of that sort passes my comprehension. If either of these classes of capital should be favored, it ought to be the shareholder, for the bondholder is secure beyond peradventure. Not only so, but in the case of railways the bondholder receives a greater rate of interest upon the average than does the stockholder. If you will examine the last report of the Interstate Commerce Commission, you will find that the bondholders of the country get a larger percentage of interest than do the shareholders as dividends. I have no words that can emphasize the impression that this simple showing must create.

But I pass on to public-utility companies—the gas companies, the street railway companies, the electric light companies, and so on. In the United States their capitalization is $7,797,828,000. Of that amount $3,519,210,000 is represented by bonds and $4,278,618,000 is represented by stock. All the suggestions which I have made with regard to the steam railways apply with equal force to public-utility companies and to mining companies.

I have here reproduced—but shall not read, because I want to hasten on—the industrial and miscellaneous companies, with their $9,800,000,000 of capitalization and their proportionate amount of bonds. The summary of all these companies is as follows:

Bonds, $14,461,735,806—nearly one-ninth of all the wealth of the United States, no matter in what form represented. One-ninth of all the wealth of the United States is represented in the bonds of the companies I have recapitulated—$14,461,735,806. Yet in a proposal to levy a tax upon the wealth of the country, upon those who are best able to bear the burdens of government, consciously and intentionally you exempt these $14,000,000,000 and pass on to the $19,000,000,000 of capital stock. If this amendment affected only these great corporations, the prejudice against corporations might justify Congress in doing so manifest an iniquity—I ought to correct that; I do not mean "justify Congress," but it might defend Congress.

But remember that these corporations are not more than one-tenth of all the corporations of the country. Ah, probably not a twentieth of them all. In every State there are a great many corporations, small, indeed, in size, composed of men of limited means who have chosen to carry on their business in this way; and the discrimination that you make between the wealth represented by the bonds and the wealth represented by the stock will condemn this law in the eyes of every honest and law-abiding and government-respecting man.

It is quite well to say that the law will be repealed within two years; I think it will be repealed before two years. I think it will be repealed just as soon as the Members of Congress have an opportunity to visit their homes, and are then called again into official duty.

But that is not all. I have been speaking of the inequality as between capital invested in corporations. There is the same substantial and fundamental inequality between capital invested in corporations and capital invested either in individual enterprises or under copartnership arrangement. One-half and more of the active capital in the United States engaged in business is in the hands of individuals and in copartnerships, and not in the hands of corporations. What do you think the law-loving and justice-loving people of this country will say of a proposition that taxes one man because he happens to have bought a share of stock of a corporation and leaves another untaxed who is engaged in exactly the same business?

Far above everything else, Senators, we ought to keep our eyes steadily upon just one star, and that is, equality of burden, equality of taxation, uniformity, if you please, in every burden that you must impose upon a citizen in order to sustain the Government. But I must pass along. All these inequalities are so obvious that I am sure they need no further elaboration upon my part. Now, I want to say a word with regard to another subject.

This amendment first embraces all corporations for profit that have capital stock represented by shares, and then it enumerates every insurance company now or hereafter organized under the laws of the United States or of any State or Territory. I do not see my esteemed friend the Senator from Connecticut [Mr. BULKELEY] here.

Mr. KEAN. He is here.

Mr. CUMMINS. Ah, I see him; and I reaffirm what he said yesterday, that there is no capital in the United States so heavily taxed at the present time as the money of insurance companies. I want that to sink deeply into the minds of Senators here. It was for that reason that in our income-tax amendment we exempted mutual insurance companies and exempted all the earnings of insurance companies except those which were applicable to dividends. I repeat, that of all forms of capital, that which finds its way into insurance companies is most heavily taxed. In our State a company that is organized under the laws of some other State pays, as I remember, 2½ per cent upon the gross premiums received in that State, and then it pays something also upon those premiums when they reach the home of the corporation. So it is with all insurance companies. I venture the statement—and I believe that the Senator from Connecticut will show it beyond peradventure—that the money that is paid by the policy holders of

this country into the hands of insurance companies is taxed more heavily and oftener than any other species of property that is known to our law; and yet they are not only brought within the provisions of this amendment, but they are brought within them indiscriminately and unintelligently, if the committee will accept my apology for using those words.

I am a good deal of an insurance man, and I know something about insurance. It is one of the few subjects that I do know something about, and, if I go wrong, I am sure my friend the Senator from Connecticut will correct me.

There are three general kinds of insurance companies: First, the old line companies, which do business under what is known as the "legal-reserve plan;" that is, they collect enough from their policy holders to lay aside a legal reserve, which, if the policy be continued according to its terms, will pay out when the event happens against which the insurance is written. These old line companies are of two sorts; one sort has capital stock, and one sort has not. Then, we have another kind of insurance companies, known as "assessment insurance companies," that collect from time to time for the losses or for the payment of policies as they may mature. Then, of course, there is another kind that insures against a particular event, such as accidents or the like.

We will take a stock company of the old line, as they are called. The policy holders pay in their money and the company must lay aside a certain amount of that in order to remain solvent. That is called the "legal reserve." In some States it is one amount and in some States it is another, depending upon the rate of interest which the statute prescribes for the solvency of the corporation.

That amount is laid aside. What remains? There remains the amount which is redistributed among the policy holders by way of dividends upon their premiums and the amount which the company must pay out of the mortuary fund for deaths that have occurred during the period; and in ascertaining the net earnings of insurance companies of that character, this amendment does not permit the deduction of any amount paid to the policy holders by way of dividends; it does not permit the deduction of any amount paid to the heirs or the legal representatives of those who die, because the losses which are permitted by the amendment are the losses which occur by casualty and by accident and are not the losses which result from the performance of a contract of insurance.

Now, mark you, what the policy holders must pay. They pay 2½ per cent to the State, and possibly more; they pay, of course, all the expenses of maintenance and operation; and then they have got to pay—no matter whether they are rich or poor, no matter what their incomes may be, no matter how hard they may be struggling in order to keep up their premiums—they must pay, then, this income tax or excise tax, or whatever you may call it.

They must bear their share of the payment of that tax upon all the money that is disbursed during the year for mortuary purposes, all the money that is to be disbursed during the year for dividends on premiums, and all the money, of course, that has to be disbursed as dividends upon stock, if it be a stock company.

Senators, if you want to raise revenue, why do you select that particular kind of capital? If I struggle and am able to get a hundred dollars to pay the premium on my insurance, and the company has to pay the state taxes—and they are heavier, as will be shown, than the taxes on any other sort of capital—why should I again be taxed on the excess which I have paid into the company over and above the amount that is absolutely necessary to carry my policy to fruition? When you once look at it, Senators, you will see there is not a gleam of merit in it. But I will pass on to another kind of company.

Let us take an assessment company, if you like. We have one assessment company in our State known as the "Bankers' Life Association." It is the largest life insurance company in the country which does business in that way. It is one of the most successful ventures in the insurance field known in a quarter of a century.

It takes in a great deal of money in the course of a year. It has no legal reserve, because it does not do business on that plan; and therefore, in taxing it, it will be permitted to deduct only the expenses of its maintenance and operation—that is to say, the salaries of its officers and its clerks—and every dollar aside from that, under this amendment, will be taxed as a part of the income of that company. That is true of every mutual accident company. It is true of every farmers' mutual company, it is true of every farmers' elevator company, it is true of every farmers' creamery company, whose profits exceed $5,000; and, as computed under this amendment, it will not require much of a corporation to have a net income of $5,000 or more. You are bringing under the taxing power of the United States the very capital, the very money, the very property that, above all kinds of property and capital, ought to be excluded from federal taxation.

Something was said yesterday about building and loan associations. We have in our State——

Mr. BRISTOW. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Kansas?

Mr. CUMMINS. I hope the Senator will not keep me here much longer; I want to close.

Mr. BRISTOW. I merely want to ask a question, if it will not disturb the Senator.

Mr. CUMMINS. Very well.

Mr. BRISTOW. Take the mutual insurance companies, such as the Ancient Order of United Workmen, and organizations of that character. Would they also be subject to this taxation?

Mr. CUMMINS. Mr. President, that may be a matter of doubt, and would depend entirely upon the law of the State in which the company or organization was created. This is my view of the matter: A secret order that has a ritual, that is intended for social advancement and social purposes, and moral purposes as well, and has a life insurance department as a mere incident of its general organization, would not, in my opinion, be an insurance company under this law. But the very moment the insurance, whether it be life or otherwise, becomes the principal object of the organization, it becomes an insurance company. I have no doubt that the A. O. U. W.—if those be the letters—is an insurance company. I have no doubt the Modern Woodmen of America would be held to be an insurance company.

Mr. BRISTOW. Then this 2 per cent would be computed on the entire receipts that are collected and disbursed?

Mr. CUMMINS. Deducting only the expenses of maintaining the office.

Mr. BRISTOW. The death claims would not be deducted?

Mr. CUMMINS. No; under this bill they would not.

Mr. BRISTOW. It is astounding to make such a proposition as that.

Mr. CUMMINS. It is. If the committee had not put out of its own power the right of amending this amendment, I have no doubt that as these enormities are pointed out it would be glad to amend it.

Mr. McCUMBER. Let me ask the Senator whether the death expense is not an ordinary expense of an insurance company of that character?

Mr. CUMMINS. No; Mr. President, it is not. It is not an expense at all in any proper sense. I have no doubt it was intended that those death losses should be deducted. But there is no reason upon the principle of the amendment why they should be deducted. I know of no reason for deducting them. Why should not the persons to whom the amounts of the policies are paid pay a tax just as well as the man who is paying a premium from month to month or from year to year? I possibly have no right to say for the committee that it was intended even that these death payments should be deducted. But if it is the purpose that in the case of any sort of insurance company there shall be deducted the payments on account of death or other event against which the insurance is issued, there should necessarily be an amendment to the bill.

Mr. President, I am sure I have exhausted every whit of patience that even a generous Senate can feel in my behalf, and I do not intend to further prolong this discussion. There are many things that can be said with regard to the operation of this bill that have yet to be said, for when you apply this bill to the actual conditions of our country and fairly understand who will be called upon to pay these taxes, the moral sense of the whole Nation will be shocked. It has already been shocked to some extent, as will be apparent from certain papers I hold in my hand.

I intended to read these papers. They consist of petitions, letters, and telegrams with respect to this tax. I have received many hundreds of them since the bill was first made public. I have selected a few which represent different points of view and come from men of wide observation, who look at life and business from varying standpoints. I shall ask leave to insert in my remarks, without reading them, the letters and telegrams I hold in my hand upon this subject.

The VICE-PRESIDENT. Without objection, permission is granted.

The papers referred to are as follows:

DES MOINES, IOWA, *June 26, 1909.*

To the honorable Finance Committee of the United States Senate and to the members of the Iowa delegation in Congress, Washington, D. C.

GENTLEMEN: The undersigned life insurance companies and associations of Iowa beg your careful consideration of the provision in the proposed measure for taxing the increased assets or surplus of corporations which may be used for dividend purposes.

First. With few, if any, exceptions, each State in which we transact business collects a tax on the premiums on the business in that State. In some States deductions are permitted for death losses paid, but in many the levy is made on the gross premiums. In many States the rate is 2½ per cent. In a few it is higher. The average must, we think, be at least 2 per cent of the gross premiums. This is certainly ample as a contribution on our part toward the maintenance of government. To double it by a like amount in favor of the Federal Government would, as we believe, be unjust, oppressive, and a burden which the system of life insurance could hardly be made to bear.

While we are willing to bear a fair and equitable burden of taxation, equal to the burden of taxation that shall be borne by other corporations of this country, we insist that a general law made applicable to all corporations based upon the net increase of assets that may be used for dividend purposes, will place a much larger burden of taxation upon life insurance companies proportionately than will be placed upon other corporations. For example, all premiums collected by an Iowa insurance company outside of its own State are subject to an income tax of at least 2½ per cent. This same money when it arrives in the State of Iowa is subject to a tax of 1 per cent (less death losses and reserve liability for the current year). This same money when it appears at the end of the year in the increased surplus of the corporation has an additional tax of 2 per cent levied upon it by local authorities. If the Federal Government now levies a tax upon the increased surplus which this same money goes into from year to year, a fourth tax will be added, which will be that much more of a tax than is paid by every other form of corporation.

Therefore we insist and maintain that justice and right require that an exception be made in the general law proposed by your committee to the extent that the taxes required by States other than the home States of insurance corporations shall be deducted from the operation of the proposed federal law. We insist that at the present time and for several years in the past insurance corporations, by reason of the action of the various States in this country, are paying 2½ per cent tax upon the premium income, which tax is 2½ per cent greater than is being paid by other corporations doing business in this country. In other words, certain States have anticipated the proposed action of the Federal Government and are already collecting a general income tax from life insurance companies, and we insist that we are already paying this item of taxation more than other organized corporations are paying; and we ask your honorable Finance Committee, in the preparation of the proposed income law, to provide a remedy for this injustice of burdening insurance institutions with a tax that is not carried by other corporations; or, in other words, we ask your honorable committee to place us on the same basis of taxation as all other corporations.

It is understood that a proposal to impose a federal tax upon inheritances was abandoned for the reason that the States had already imposed such levies for the raising of state revenues.

It must certainly be desirable, so far as possible, that the revenues of the National Government should be so raised as not to interfere with the operations of the taxing departments of the States or to duplicate the state levies.

Upon this principle the proposed federal law might well provide that such corporations as are required to pay taxes upon their receipts to the States may deduct the amounts so paid from the levy made upon them under the proposed United States statute.

We appeal to your judgment and fairness in this matter, and ask that the proposed law may be so amended as not to impose twice the burden of taxation upon life insurance corporations that will be imposed upon other forms of corporations in this country.

Yours, very respectfully,

ROYAL UNION MUTUAL LIFE,
By FRANK D. JACKSON, *President.*
AMERICAN LIFE INSURANCE CO.,
By J. C. GRIFFITH, *Secretary.*
EQUITABLE LIFE INSURANCE CO. OF IOWA,
By CYRUS KIRK, *President.*
DES MOINES LIFE INSURANCE CO., OF IOWA.,
By L. C. RAWSON, *Vice-President.*
CENTRAL LIFE ASSURANCE SOCIETY OF THE UNITED STATES,
By GEO. B. PEAK, *President.*
THE BANKERS' LIFE ASSOCIATION,
By E. E. CLARK, *President.*

OFFICE OF GREEN BAY LUMBER COMPANY,
Harlan, Iowa, June 26, 1909.

Hon. J. P. DOLLIVER,
Washington, D. C.

DEAR SENATOR: With some hesitancy I am undertaking this letter to you in the matter of the proposed income tax upon corporations as such; not in any advisory sense, but simply as an informal expression of interests that seem to me likely to be overlooked, or at least overshadowed, by more striking features in the situation. I refer to the interests of those people of moderate and even slender means, whose savings are largely if not wholly invested in corporation stocks. These corporations are generally concerns with which the investor has been connected for years as a faithful employee, though there has been a growing tendency toward such investments among our farmers, and more especially their widows who dread the care of the farm. The prominent business figures of the country or community really own a decided minority of the concerns that they dominate or even manage.

The writer has always understood the economic principle of an income tax to be that when an individual's income became sufficient to support himself and family in a high degree of comfort any further increase of that income—which could only serve the purpose of luxury or more extensive investment—should be subject to a special tax for the common good; in short, the surplus income of one would be taxed to relieve a similar burden upon the scant income of another.

Inasmuch as a corporation has no personal needs, it has no income in the sense above defined. The net earnings of a corporation are really a trust fund, held for distribution among the stockholders to whom the dividends become income in the meaning here to be considered. The corporation is already taxed upon its holdings in the assessment of its property, real and personal; further taxation would be double taxation and, it seems to me, indefensible from the standpoint of logic or equity. It would be just as reasonable to call the net returns of an estate the income of the administrator.

The last few years have developed a very general desire on the part of employees to participate in the investment as well as the labor in those lines which they have made their life work. In most cases, the employers have shown a commendable disposition to meet this demand. Aside from the material benefit likely to result from this arrangement, the spirit of mutual interest and good will thus shown must be highly gratifying to every good citizen. In my humble judgment, the growth and success of such arrangements means much to the Nation, and I would deeply deplore any legislation to the contrary.

Yet the levying of a so-called "income tax" upon the net earnings of corporations, as such, can not fail to discourage this desired partnership between labor and capital, in that it places a special tax upon the smallest stockholder and tempts capital to avoid all forms of incorporation; and there is no other form of business association so well adapted to the common needs of both large and small interests. Within my personal knowledge, more than 60 per cent of the corporation stock held by employees is acquired upon credit, the purchaser relying upon the dividends to pay him out if he can save the interest from his earnings. Thrifty and efficient men win out on this plan nearly every time, but it is plain to be seen that even a small addition to this burden would tend to discourage the attempt, even if it were not actually a serious handicap.

In conclusion, I will ask you to pardon so lengthy a communication to one as busy as yourself, but this participation by employee in the stock of the employing corporation is a hobby of mine, and it is hard for me to quit. At the risk of discrediting all that I have said, I will confess that I am a Democrat and a believer in income tax; but I can not refrain from protesting against a measure that will, I believe, seriously interfere with the successful operation and further development of the most important organ in the body economic—human labor. Hoping again that my earnest interest in the matter may excuse my presumption, I am,

Very truly, yours, ———.

SECURITY TRUST AND SAVINGS BANK,
Charles City, Iowa, June 24, 1909.

Hon. A. B. CUMMINS,
Washington, D. C.

MY DEAR SENATOR: I feel that it is the duty of every citizen to express himself upon the proposed corporation income tax. It seems to me that of all the unfair propositions that was ever proposed, this one takes the cake. While personally I would not be in favor of an income tax, still, an income tax upon all incomes, it seems to me, would be "a king" compared to the corporation income tax which is proposed.

In every progressive community at the present time a large part of the business which is a benefit to the community and to the laboring man is conducted by corporations. These corporations are in almost every instance backed and supported by the men who believe in keeping their money at work for the good of the laborer and for the good of his city. In order to do this he must invest his money in corporations doing business in his city.

There is another class of men in every community who have amassed fortunes, which they see fit to hold and only use for their own personal benefit to see how much "per cent" they can receive upon it, who never take any interest in the community and never do anything which will benefit anybody except themselves.

The progressive up-to-date citizen, who is constantly on the move and trying to make things go, must pay this corporation tax. The "10 per cent fellow" sits back and pays nothing. It seems to me that it is utterly and absolutely absurd to ask him to do this.

In our own city we have a little bunch of people who have every dollar they can gather together invested in the stocks of corporations and who are doing more for the city and the State than hundreds of the other people who will not invest their money in anything except securities which bring them dollars for their investment.

The result, as I have said before, seems to me is absolute unfairness and injustice. I can not speak of other communities, but I can say that for this community the proposed corporation income tax would certainly be very unpopular.

I wish again to congratulate you upon the fight that you have been making upon the tariff bill, and while you have not accomplished much in apparent results, I am satisfied that the future will justify you and that you will gain largely by the course you have taken and that the people of the whole United States will eventually justify your course.

With kind personal regards, I remain,

Yours, very truly, A. E. ELLIS.

BETTENDORF METAL WHEEL COMPANY,
Davenport, Iowa, June 21, 1909.

Hon. A. B. CUMMINS,
United States Senate, Washington, D. C.

DEAR SENATOR: I take the privilege of writing you in regard to the proposed tax on the income of corporations. The object of the proposed law is twofold—revenue and publicity. As regards revenue, the tax is discriminating and unjust. It does not affect the incomes of individuals not derived from stocks, in many cases enormous, while taxing people of small means, who derive their income from stocks.

As regards the publicity feature, I appreciate the desirability of giving accurate information to the public in regard to stocks and bonds of the great corporations whose securities are listed on the exchanges and sold to the public. There are, however, in Iowa and other States a vast number of what might be called "private corporations," with but few stockholders, whose securities are not on the market for sale to the public. These corporations are in constant competition with individuals and partnerships, and it is an act of discrimination to compel them to make public their earnings and comply with federal regulations without requiring the same of the individuals and partnerships doing a like business. A general income tax applicable to all, individuals, partnerships, and corporations, with proper provision to prevent double taxation, will obviate the injustice and discrimination.

The effect of the proposed law for taxing the earnings of corporations only will be to drive many industrial enterprises from the corporate to the partnership form of organization, causing a useless and unwarranted expense. To encourage the conduct of business through less advantageous forms of organization means an economic loss, indirectly affecting the entire country.

While your views may not agree with those expressed above, I have taken the liberty of laying them before you for your consideration.

While writing you, I wish to express my appreciation of your able efforts to secure a substantial reduction of the tariff.

Yours, truly, NATH. FRENCH.

PITTSBURG, PA., *June 18, 1909.*

Senator CUMMINS,
Senate Chamber, Washington, D. C.:

I respectfully urge you to demand tax amendment providing that corporation tax be small graduated tax upon gross earnings of corporations instead of straight 2 per cent tax on net earnings, said tax to be made to bear more heavily upon those corporations which control, or nearly control, prices in their respective lines. This would be

proper discrimination in favor of small competitors of gigantic trusts, and it would tend to prevent trusts from shifting such taxes to shoulders of consumer. In my humble estimation it is just such protection that is most needed in America at this time.

CLARENCE VANDYKE TIERS.

DUBUQUE, IOWA, *June 28, 1909.*

Hon. A. B. CUMMINS, *Senate:*

We urge you to exempt building and loan associations from proposed corporation-tax amendment to the tariff act.

IOWA STATE LEAGUE BUILDING AND LOAN ASSOCIATIONS,
C. H. REYNOLDS, *Secretary.*

CEDAR RAPIDS, IOWA, *June 28, 1909.*

Hon. A. B. CUMMINS,
Senate Chamber, Washington, D. C.:

If possible, have domestic local building and loan associations exempt from proposed corporation-tax amendment to tariff act.

IOWA DOMESTIC LOCAL BUILDING AND LOAN ASSOCIATION LEAGUE,
F. D. DENLINGER, *President.*

CHICAGO, ILL., *June 25, 1909.*

Hon. ALBERT B. CUMMINS,
Senate, Washington, D. C.:

The Chicago Association of Commerce, composed of 3,000 firms, corporations, and individuals, to-day passed the following resolution, and instructed me to forward copy to you:

"Whereas there is a proposition before Congress to tax the net income of corporations; and

"Whereas such a proposed tax, especially as applied to mercantile, manufacturing, and industrial corporations, would be an act of great injustice, as copartnerships engaged in exactly the same business are not so taxed: Therefore be it

"*Resolved*, That the Chicago Association of Commerce vigorously protests against such legislation, which places a serious burden upon mercantile, manufacturing, and industrial corporations and omits the individual and copartnership engaged in similar or competitive lines of business."

EDWARD W. SKINNER, *President.*

Mr. CUMMINS. And now, Senators, I can not close without expressing the obligation I feel for the hearing you have given me; nor can I close without expressing the hope that you will apply the universal principles of justice and fairness to this subject, and that you will not permit the legislative history of a country like ours to be clouded by so manifest an act of wrong and oppression.

I omitted yesterday to ask the Senate to insert as a part of my remarks a portion of a consular report respecting income taxes in other countries. I ask now the consent of the Senate.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Iowa? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

FINANCES—INCOME TAXES ABROAD.

United Kingdom.

OPERATION AND EXTENT OF YIELD—RECEIPTS FROM VARIOUS GROUPS.

Special Agent Charles M. Pepper has prepared the following very comprehensive report on the British income tax, showing the rates of taxation, and also its relation to the other sources of revenue:

The British income tax in one form or another has been in force with some short and some long intervals of freedom from it for 110 years. Since 1842 its operation has been almost continuous. In 1799, when the tax was first applied and Ireland was not included, the population on which it was laid numbered 10,500,000 and the revenue obtained was approximately $30,000,000. For the fiscal year which ended March 31, 1909, with a population in Great Britain and Ireland of 44,500,000, the revenue was £33,930,000 ($165,103,000). This was the greatest single source of revenue, since it exceeded the excise revenue by £300,000. It was also £930,000 in excess of the estimate for the year. The tax was levied on gross income of approximately $5,000,000,000 and net income of $3,200,000,000. While the income-tax receipts occasionally fall below the estimates by small amounts, the more common experience is that the receipts exceed them by large amounts.

RELATION OF INCOME TAX TO OTHER REVENUES.

The exact relation of the property and income tax, as it is known, to the other revenues of the United Kingdom appears in the following summary of sources of revenue for the fiscal year 1908–9:

Customs	£29,200,000
Excise	33,650,000
Estate, etc., duties	18,370,000
Stamps	7,770,000
Land tax	730,000
House duty	1,900,000
Property and income tax	33,930,000
Post-office	17,770,000
Telegraph and telephone	4,530,000
Crown lands	530,000
Suez Canal, etc	1,171,466
Miscellaneous	2,026,829
Total	151,578,295

From this total of £151,578,295 ($735,590,000), in order to get at the tax and nontax means of revenue it is necessary to separate the nontax revenues, which are those from the post-office, telegraph and telephone, crown lands, Suez Canal shares, and miscellaneous sources. These amounted to £26,028,295 ($126,654,000), leaving £125,550,000 ($610,936,000) raised by taxation. From this it appears that in 1908, out of total revenues of $737,590,000 and of tax revenues of $610,936,000, the income-tax contribution was the largest.

HISTORY OF THE TAX—SCHEDULES.

The history of the income impost may be briefly described as a series of temporary expedients converted from time to time into fixed taxes, until it has become one of the chief means of taxation. The tax has varied from time to time both in form and substance, while the rates have ranged over a wide scale, until now in the fiscal legislation of the United Kingdom the changes made are usually with a view to securing further revenue, though in some periods the modifications have been for the purpose of giving relief. The system in force is based on the fundamental acts of 1842 and 1853, and the tax is imposed for every 20 shillings, or pound sterling ($4.866), of the annual value of certain profits, which are set forth under various schedules comprising the sources of income. These are as follows:

Schedule A.—Property in all lands, tenements, hereditaments, and heritages in the United Kingdom.

Schedule B.—Occupation of all such lands, tenements, hereditaments, and heritages.

Schedule C.—All profits arising from interest, annuities, dividends, and shares of annuities payable to any person, body politic or corporate, company or society, whether corporate or not corporate, out of any public revenue.

Schedule D.—The annual profits or gains arising or accruing to any person residing in the United Kingdom from any kind of property whatever, whether situate in the United Kingdom or elsewhere, and the annual profits or gains arising or accruing to any person residing in the United Kingdom from any profession, trade, employment, or vocation, whether the same shall be respectively carried out in the United Kingdom or elsewhere.

And the annual profits or gains arising or accruing to any person whatever, and whether a subject of His Majesty or not, although not resident within the United Kingdom, from any profit whatever in the United Kingdom, or any profession, trade, employment, or vocation exercised within the United Kingdom.

And all interest of money, annuities, and other annual profits and gains not changed by virtue of any of the other schedules.

Schedule E.—Every public office or employment of profit, and upon every annuity, pension, or stipend payable by His Majesty or out of the public revenues of the United Kingdom, except annuities charged to the duties under Schedule C.

EXPLANATIONS OF THE SCHEDULES.

Full definitions are given of the meaning of the various terms in these schedules as they are to be applied by the commissioners of the inland revenue. Collections "at the source" include the tax on land paid through the tenants, on dividends paid from the offices of public companies, and on consols paid through the Bank of England. It is stated that in order to secure the abatements and deductions which are allowed, about four-fifths of the income-tax payers make written declarations of their aggregate incomes. Two-thirds of the tax is paid indirectly.

ABATEMENTS AND MODIFICATIONS.

All incomes under £160 are exempt from the income tax. Graduated abatements also are allowed on incomes between £160 and £700. The scale of these abatements since 1898 has been as follows: £160 on incomes exceeding £160, but not exceeding $400; £150 on incomes exceeding £400, but not exceeding £500; £120 on incomes exceeding £500, but not exceeding £600; £70 on incomes exceeding £600, but not exceeding £700.

The modifications of the income tax in practice are set forth in the detailed exhibits of the number and amounts of the abatements, in the exemptions in respect of small incomes, and in the deductions from gross income for life insurance premiums, charities, and hospitals, repairs of lands and houses, wear and tear of machinery or plant, and other allowances. Deductions of one-eighth are allowed in respect of lands and of one-sixth in respect of houses for repairs, etc.

In analyzing the yield from the tax attention must be paid to the rate of charge, and a basis of estimate may be had from the knowledge that at 1 shilling in the pound sterling it would be 5 per cent. The lowest rate of charge since the foundation of the present system was laid, in 1853, has been 2 pence in the pound sterling, which would be 4 cents in $4.86, or a fraction over 1 cent on the dollar. This rate obtained in 1875–76. In 1874 the charge was 3 pence to the pound. Since 1896 the lowest rate has been 8 pence and the highest 1 shilling 3 pence, or approximately 30 cents to the $5. The various exemptions, deductions, and abatements in practice have the effect of modifying the rate for the individual taxpayer, but in calculating the revenue derived from the tax the feasible mode is to determine the amount which each penny in the pound produces. Thus, in 1898, when the rate of charge was 8 pence, the total produce for each penny of the tax was £2,188,000 ($10,692,000), and in 1907, when the rate was 1 shilling, £2,667,000 ($12,977,000). In terms of American currency this would be approximately $5,350,000 and $6,500,000 for each 1 cent of the tax in the respective year.

NET RECEIPTS FROM TAX.

The net receipts of the income tax in the fiscal years from 1898–99 to 1907–8, inclusive, showed that in the latter year almost twice as much revenue was drawn from this source as in 1898, the figures being £18,042,311 and £31,860,000, respectively. The bulk of the increase was due to increased rates, though not exclusively so, as the gross amounts and the net incomes both increased in the period mentioned. Since every year reveals incomes previously covered up, the mere addition to either the gross income or the net income can not be taken as entirely a fresh addition to the national wealth. The full returns of net receipts and rate of charge in the period from 1898 to 1907, inclusive, are as follows:

Year.	Amount.	Rate in the pound sterling.
		s. d.
1898–99	£18,042,311	0 8
1899–1900	18,867,336	0 8
1900–1901	27,561,160	1 0
1901–2	35,378,700	1 2
1902–3	38,659,846	1 3
1903–4	30,500,450	0 11
1904–5	31,263,654	1 0
1905–6	31,294,752	1 0
1906–7	31,891,949	1 0
1907–8	[a]31,860,380	1 0

[a] Nine pence on "earned" incomes up to £2,000.

YIELD FROM VARIOUS SOURCES.

Notwithstanding the complicated working system of the tax, it is possible to place the yield from the different sources as classified under the various schedules. Complete statistics for the fiscal years 1907 and 1908 are not available, but for the ten-year period from 1897 to 1906, inclusive, the classes of income on which tax was received can be given, the abatements and deductions from gross income having been made. The exhibit is as follows:

Year.	Class 1, profits from ownership of lands, houses, etc. (Schedule A).	Class 2, profits from occupation of lands, etc. (Schedule B).	Class 3, profits from British, Indian, colonial and foreign government securities (Schedule C).	Class 4, profits from businesses, concerns, professions, employments, etc. (Schedule D).	Class 5, salaries of government, corporation, and public company officials (Schedule E).	Total.
1896-7	£143,120,150	£5,026,024	£35,966,088	£303,598,980	£37,490,958	£525,211,200
1897-98	148,123,018	4,987,105	36,703,116	318,555,003	39,861,208	548,229,450
1898-99	149,043,232	4,832,636	36,165,600	332,149,361	42,678,520	564,868,749
1899-1900	151,403,371	4,706,301	38,170,385	354,038,230	45,787,966	594,106,253
1900-1901	152,178,033	4,411,746	40,708,889	363,027,479	47,164,772	607,550,919
1901-2	152,282,299	4,338,514	42,310,728	361,403,999	48,271,363	608,606,903
1902-3	156,197,274	4,431,668	40,286,157	364,483,933	49,713,341	615,012,373
1903-4	157,696,080	4,205,124	41,357,050	365,234,308	50,835,535	619,328,097
1904-5	157,525,804	4,090,835	42,316,844	375,348,954	52,742,309	632,024,746
1905-6	158,452,590	4,111,585	41,710,964	381,036,647	54,786,452	640,048,238

The gross amount of income arising from the ownership of lands, houses, etc., for 1907, showed a net increase of £47,284,000, or 21.8 per cent, as compared with 1898. There was a decrease as regards lands of 3.4 per cent, which was more than compensated for by the increase as regards houses, which was 29.9 per cent.

Profits from government securities—British, Indian, colonial, and foreign—showed an increase of £8,113,000, or 21 per cent, over the same decennial period.

Interest from Indian, colonial, and foreign securities other than government securities increased £6,807,000, and railways out of the United Kingdom £5,957,000.

Businesses, concerns, professions, etc., showed an increase of £117,357,000, or 29.2 per cent, during the ten years.

Railways in the United Kingdom showed an increase of £2,355,000; mines, £7,294,000; gas works, £1,735,000; iron works, £474,000; waterworks, £1,389,000.

Salaries of government, corporation, and public company officials increased in the ten years from £59,791,000 to £97,132,000, or 62.4 per cent, but part of this was merely bookkeeping, since the conversion of private concerns into public companies increased the amount assessed under profits from businesses, concerns, etc.

RELATIVE YIELD OF THE SEVERAL GROUPS.

From the tabular summary it will be seen that the single group of businesses, concerns, professions, and employments furnishes more than half the income from which the tax is collected, the amount in 1906–7 having been £381,037,000 out of the total of £640,048,000. Relatively, the same proportion holds with reference to gross income, the figures for the same year having been £518,670,000 out of a total of £943,702,000. The gross income under this head covers the assessable profits after the deduction of all outgoings which the law regards as a set-off in arriving at the assessable income. The profits included in this group consist of those from businesses, manufactures, or concerns in the nature of trade, from employments except those of a public nature, and from foreign and colonial securities, except government securities. The main classification in this group is the general one of businesses and professions, including salaries of employees. In the year under consideration it afforded £373,057,000 out of the gross income of £518,670,000. Particular properties designated are railways, canals, mines, gas works, iron works, market tolls, quarries, etc. Railways were credited with a gross income of £42,070,000, and mines, £16,372,000.

After businesses and professions, profits from the ownership of lands and houses are the leading source of income on which the tax is laid. In the year cited they furnished £263,742,000 of gross and £158,453,000 of net income. This group includes every description of property in the nature of realty that can be brought into valuation. Farmers' profits come under the separate grouping of occupation of lands. The profits are assumed by law to be one-third of the annual value.

The gross income from all classes of profits brought under review of the inland-revenue department ranged from £734,461,000 in 1897 to £943,702,000 in 1906. The character and the relative proportions of the elements which differentiate the gross income from the income on which the tax is received can be shown from the analysis of deductions for a single year, and for this purpose 1906–7 is taken. In that year the deductions from gross income were as follows:

Exemptions in respect of small incomes	£54,520,281
Abatements	114,556,689
Life-insurance premiums	9,155,557
Charities, hospitals, friendly societies, etc	11,105,028
Repairs—lands and houses	38,996,538
Wear and tear of machinery or plant	17,107,518
Other allowances and incomes on which tax was irrecoverable	58,212,165
Total	303,653,776

INCOME FROM ABROAD.

A very interesting feature of the British income tax is the amounts received from investments abroad. These include income disclosed by agents for payment of interest in the United Kingdom on foreign and colonial government securities, tax on dividends or interest paid through agents by a foreign or colonial company or corporation, tax on the value of coupons for interest and dividends from abroad, income received in respect of investments abroad, and British companies owning and working railways abroad. In 1907 the income disclosed under these heads amounted to £79,560,000.

Beyond this earmarked figure there exists a large amount of income from abroad which can not be identified as such in the assessments, and which is therefore included in the quota of businesses, professions, etc. This unidentified income includes concerns other than railways situated abroad, but having their seat of direction and management in the United Kingdom, such as mines, gas works, tramways, nitrate grounds, oil fields, tea and coffee plantations, land and financial companies, etc.; concerns jointly worked abroad and in the United Kingdom, such as electric telegraph cables and shipping; foreign and colonial branches of banks, insurance companies, and mercantile houses in the United Kingdom; mortgages of property and other loans and deposits abroad belonging to banks, etc., in the United Kingdom; profits of all kinds arising from business done abroad by manufacturers, merchants, and commission agents resident in the United Kingdom.

Profits from abroad so far as identified for the period from 1898 to 1907, inclusive, have been as follows:

Year.	India government stocks, loans, and guaranteed railways.	Colonial or foreign government securities.	Colonial or foreign securities (other than government) and possessions "coupons" and railways out of the United Kingdom other than those included in column 2.	Total.
1897-98	£8,168,258	£17,205,934	£31,265,474	£56,639,666
1898-99	8,258,820	18,233,429	33,217,654	59,709,903
1899-1900	8,281,704	18,394,390	33,590,792	60,266,886
1900-1901	8,567,639	18,685,410	33,078,476	60,331,525
1901-2	8,880,908	19,245,888	34,432,683	62,559,479
1902-3	9,048,777	19,935,643	34,814,295	63,828,715
1903-4	8,695,929	20,263,072	36,906,305	65,865,306
1904-5	8,760,185	20,880,837	36,421,087	66,062,109
1905-6	8,862,807	22,069,260	42,967,198	73,899,265
1906-7	8,768,237	22,270,846	48,521,033	79,560,116

A valuable addition to the details given regarding profits from abroad is afforded in the summary of income from profits from British, Indian, colonial, and foreign government securities. The gross profits under this head in 1907 amounted to £46,722,000 as against £38,609,000 in 1898. From an analysis of the countries from which this income was received it appears that British funded debt, unfunded debt, and various guaranteed stocks amounted to £15,683,000; Indian stocks and loans and guaranteed railways, £8,768,000; colonial securities, £13,932,000; foreign, £8,338,000. Of the foreign securities, £3,843,000 is credited to America, about all the countries of Latin America being included. The bulk of these securities, however, are for the South American countries, the Argentine Republic being credited with £1,358,000; Brazil, £992,000; and Chile, £615,000.

INDIVIDUAL TAXPAYERS.

Since two-thirds of the tax is collected indirectly, it is not possible to give the exact number of individual income-tax payers as distinct from the number of assessments. In the income from businesses, professions, etc., for 1907 the number of assessments were as follows:

Persons, 476,404; firms, 58,049; public companies, 33,508; local authorities, 10,639; total, 578,600. There may be more than one assessment on the same person, firm, or company, as a person, for instance, may be carrying on two or more distinct businesses in different parts of the country, and the assessments are made in the districts where those businesses are situated.

ASSESSMENTS ON GROSS INCOMES.

To the figures above given are added employees under Schedules D and E; that is, of business firms and of the government and public companies, the former being 101,344 and the latter 417,845. This makes a grand total of assessments of 996,445, or close to the million mark for the two classes which are capable of classification, and the amount of gross income on which they paid the income tax was £615,801,000.

Keeping in mind that the number of assessments does not represent either total incomes from all sources or the number of taxpayers, an exhibit nevertheless may be had of the practical working of the income tax as applied to profits from businesses and to salaries from a detailed examination of the tabular exhibit of the 996,000 assessments which represented a gross income of £615,801,000. This shows

assessments of persons, firms, public companies, and local authorities on gross incomes as follows:

Grade of income.	Number of assessments.	Gross amount of income.
Not exceeding £160, but not exempt	318,570	£22,841,134
Exceeding £160 and not exceeding £200	237,775	43,946,713
Exceeding £200 and not exceeding £300	205,914	52,105,397
Exceeding £300 and not exceeding £400	80,019	28,676,015
Exceeding £400 and not exceeding £500	44,176	22,509,034
Exceeding £500 and not exceeding £600	23,175	13,094,198
Exceeding £600 and not exceeding £700	13,811	9,127,473
Exceeding £700 and not exceeding £800	11,154	8,509,841
Exceeding £800 and not exceeding £900	6,350	5,457,395
Exceeding £900 and not exceeding £1,000	8,758	8,552,798
Exceeding £1,000 and not exceeding £2,000	23,032	33,758,188
Exceeding £2,000 and not exceeding £3,000	7,407	18,592,178
Exceeding £3,000 and not exceeding £4,000	3,893	13,376,481
Exceeding £4,000 and not exceeding £5,000	2,533	11,560,511
Exceeding £5,000 and not exceeding £10,000	4,831	34,909,592
Exceeding £10,000 and not exceeding £50,000	4,188	87,275,455
Exceeding £50,000	949	174,174,323

There was also £29,336,128 gross amount of income from agents, bankers, and coupon dealers deducting tax on behalf of the revenue, but this can not be given in terms of grades of income and numbers of assessments.

It may be noted that the assessments on incomes of £50,000 and upward, or on $250,000, include 20 individuals and 92 firms.

The national income of the United Kingdom is variously estimated by economists and statisticians at from £1,600,000,000 to £2,000,000,000 annually. Since gross income of more than £900,000,000 and net income in excess of £600,000,000 is brought under contribution, it would appear that one-half the national income is subject to the tax and one-third pays it.

Recent history of the income tax is embodied in the finance act of 1907. Numerous changes were made by this legislation, some of them being on the recommendation of a select committee, which was appointed in 1906, to inquire into and report upon the practicability of graduating the income tax and of differentiating for the purpose of the tax between permanent and precarious incomes. The relief given to "earned" incomes up to £2,000 by a smaller rate of charge was the result of this recommendation. Among other recommendations of the committee was one that it should be made obligatory on every individual to fill up a form of return of income, even where the return would merely be a statement that the individual had no income directly chargeable to the tax. This was made effective. A recommendation for improvements in the methods of claiming allowance for depreciation and wear was also enacted. It was under the finance act of 1907 that the taxpayer was entitled to be charged on the actual profits made during the year, instead of on an average of those profits for the preceding three years, if he preferred that method.

In the budget submitted to Parliament for the current fiscal year by the chancellor of the exchequer the tax on unearned incomes is increased by 2d., making it 1s. 2d., and the tax on earned incomes over £2,000 is raised to 1s. Persons earning under £500 a year are given a new abatement of £10 for every child under 16 years. On incomes exceeding £5,000 a year there is to be a supertax of 6d. in the pound. The chancellor estimated that the extra yield from the income tax proper would be £3,000,000, and from the supertax £2,300,000.

Mr. BORAH obtained the floor.

Mr. CLAPP. Mr. President, I suggest the absence of a quorum.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cummins	Hughes	Page
Bailey	Curtis	Johnson, N. Dak.	Perkins
Beveridge	Davis	Johnston, Ala.	Piles
Borah	Dick	Jones	Root
Bourne	Dillingham	Kean	Scott
Brandegee	Dixon	La Follette	Simmons
Bristow	Elkins	Lodge	Smith, Mich.
Bulkeley	Fletcher	McCumber	Smith, S. C.
Burkett	Flint	McEnery	Smoot
Burrows	Foster	Money	Stone
Carter	Frye	Nelson	Sutherland
Chamberlain	Gallinger	Newlands	Tillman
Clapp	Gamble	Oliver	Warner
Clark, Wyo.	Guggenheim	Overman	Warren
Culberson	Heyburn	Owen	Wetmore

The VICE-PRESIDENT. Sixty Senators have answered to the roll call. A quorum of the Senate is present.

Mr. BORAH. Mr. President, a noted member of this body once said that it was a rule of his life to quarrel with principles and not with men. I think it is especially important, in dealing with a subject of this kind, that we bear that in mind, and that whatever difference of opinion there may be with reference to the merits or demerits of the corporation tax, we should discuss it from the standpoint of principle rather than that of personalities.

I make this suggestion early, for the reason that I shall be compelled to quote the language of different Members of this body with reference to their views upon this matter; and I do so, not with a view or purpose of criticising anyone from a personal standpoint, or assuming any change of view, but with an idea of putting before the Senate, if I may, what I conceive to be the best thought and the best judgment, not only of my party, but of the leading men of the country, upon such a measure.

For the first seventeen years of my life I was privileged to listen almost entirely in the way of public addresses to those men, beneficent in purpose and in service to the public, who always insist on taking a text before they begin their address. Bearing in mind that early lesson of childhood, I wish to take as my text for this address the language of the distinguished Senator from Rhode Island, as contained in the CONGRESSIONAL RECORD at page 3929.

> I shall vote for a corporation tax as a means to defeat the income tax. * * * I am willing to accept a proposition of this kind for the purpose of avoiding what, to my mind, is a great evil and the imposition of a tax in time of peace when there is no emergency, a tax which is sure in the end to destroy the protective system.

I desire also to quote in that connection the language of ex-President Harrison, wherein he said:

> The great bulk of our people are lovers of justice. They do not believe that poverty is a virtue or property a crime. They believe in equality of opportunity, and not of dollars. Equality is the golden thread that runs all through the fabric of our civil institutions—the dominating note in the swelling symphony of liberty.

I quote this last expression from ex-President Harrison for the reason that I shall refer sometimes to the principle of equality, not in a strict constitutional sense, not confining my views to the technical equality denominated by the Constitution with reference to certain rights and powers, but referring to that golden thread of equality which runs all through our civil institutions as a fundamental principle, regardless of any written constitution—a fundamental principle which we can not afford to ignore any more than we can afford to ignore a specific proposition enunciated in the Constitution.

It is not my purpose at this time to discuss in a comparative way the merits or demerits of the income tax and the corporation tax. I realize—and I had just as well be frank—that the chance for the enactment of an income tax has practically been removed, so far as this session is concerned. I am, however, sufficiently of the faith to state that I believe it is only removed for a time. But I want this evening to inquire particularly with reference to the measure which has been submitted to us and which, I presume, we are to assume at this time is to be enacted into law. I want to view it as if it were submitted here as an original proposition, without reference to the effect it may have upon the income tax, from the standpoint of whether or not it would be proper to enact it into law, even if it were not designed to kill what some conceive to be an erroneous measure.

So far as I am individually concerned, regardless of the question of an income tax, I could not bring myself to the support of this measure by reason of any personal or political relation I may have to individuals or to my party. That is not altogether a pleasant attitude to assume. In many ways it is extremely unpleasant.

But I want to inquire first, Mr. President, who is to pay the tax we are about to levy? It has been given out to the country, and has been somewhat extensively assumed, that this is another means of placing a tax upon the wealth of the country; that by this process of singling out corporations we will reach the wealth of the land rather than place a tax upon consumers, or that great body of American citizenship which now bears its undue proportion of the taxes of the country. I am very frank to say that if I were convinced of that one proposition as stated by those who support this tax—that it will reach the wealth of the country—I should support it as a temporary measure, for the purpose of wiping out the deficit that now confronts us. I would not support it as a permanent measure, for the reason that I know that it can not and will not reach that already earned, now inactive, wealth which pays practically no tax, and never will if certain influences in this country can have their way. But as I am convinced beyond all question that by this means we are about to proceed, under a thin guise of doing otherwise, to place another heavy burden and tax upon those who already bear an unjust and undue proportion of the burdens of the Government, I prefer, rather than to support the tax, to go back to the statesmanlike view announced by the Senator from Rhode Island in the opening of this tariff debate. That is to say, if we can not by the tariff bill raise sufficient revenue to run the Government, I should resort to extreme measures of retrenchment in expenditures rather than place this extra burden upon the great mass of American citizenship.

The Senator from Rhode Island has not, to my knowledge, at any time made in this Chamber a declaration that ought to command the support and respect of this body to a greater extent than that statement, which he made in the opening of this debate. I will say here that I have never been enthusiastic in the support of an income tax as a mere proposition to meet the temporary expenditures of the Government. My enthusiasm has arisen out of the proposition that it will enable us to distribute

the already great burden of government between consumers and wealth. But if we are now to lay a tax—as I believe we are about to do—which will finally rest not upon wealth, but upon consumption, then I go back to the principle announced by the Senator from Rhode Island, and say that it is our duty as Senators to accept his statement that if there is not sufficient revenue to run the Government we must retrench. For, to my mind, it is almost a moral crime to place an additional expense upon the very people who are to-day bearing the great burdens of government.

The Senator from Rhode Island, in opening the tariff debate, said:

I am asked what would happen if it should be found that I am oversanguine or wholly inaccurate in my statements of probable results. What shall we do if the revenues actually received are less than those I have anticipated and large deficiencies are threatened? I answer, with all the emphasis at my command, that it would then be the imperative duty of Congress to reduce expenditures and make them conform to the actual revenue conditions, and not impose new and onerous taxes.

In the next place, after having inquired as to who is to pay this tax, I want to make some inquiry as to the attitude of the Republican party upon a measure of this kind; for those of us who have been inclined to support the amendment submitted by the Senator from Texas have been criticised—not publicly, but to some extent privately—as inclined to support a Democratic measure. I am a pretty strong partisan, but I believe the rule can not always be invoked in the discharge of legislative duty.

I therefore propose to show this afternoon, if I can, and I believe I shall be able to do so, not so much upon any original idea of my own as upon the ideas of those who are better informed, first, that this tax will not be paid by wealth, but by consumption. Having shown that, I propose to show, in the second place, that it is wrong at this time, under the circumstances which confront us, to place any greater burden upon that class of people. Third, I propose to show that the party of which I am an humble member has always opposed this tax upon principle; that it is unjust, unfair, discriminating, and of doubtful constitutionality.

Of course it is proper to say at the beginning, because that is now conceded, that this amendment was born of fear. No one seems to love it, or to care particularly what becomes of it after it has served its temporary purpose. But notwithstanding the fact of its manner of coming before us and the reasons for bringing it here, if we should find that it is actually a good measure, perhaps that should not be used against it. It is admitted, of course, by those who support it, that it was not brought in for its merits, but because of the ulterior purpose it would serve.

With these preliminary statements, I want to go back for a time into the political history we have just passed over and within the memory of all men who sit in this Chamber, many of them participating in it, and trace out, if I can, from the declarations of those men, whose wisdom and whose position in the party can not be questioned, something as to the merits and demerits of this tax; where the burden will fall; who will pay it; and why, upon principle and authority, it should not become a statute.

We recall the fact that in 1898, among other amendments which were suggested to the war-revenue act of June 13, 1898, there was a proposition to levy a tax upon the right to do business in the sugar-refining industry and the industry of refining petroleum. The amendment to which I am now addressing myself referred solely to those two industries. But the principle was discussed, and was discussed at length, by the Senate.

Senator Platt, of Connecticut, said at the time:

I desire to say a word why I propose to vote against this amendment. * * * It is picking out from all the interests of the country two classes of business where it is absolutely certain that the corporations will not pay the tax, but that it will be paid by the consumer. There is no other business in the country where the corporations or the persons engaged in it can so surely and certainly evade the payment of the tax as in the case of the business of oil refining and sugar refining, and what is more, the persons engaged in the business will be very careful in raising the price of oil and sugar to raise it a little more than the tax, so that the consumer will pay not only the tax, but the additional profit to these two companies.

Senator Platt was a profound statesman. He was not a man who spoke at random. He proved himself upon this occasion to be somewhat of a prophet, because it transpired that exactly what he said would take place did take place, with the exception of the fact that when the tax was removed the trust forgot to take off the extra charge which it placed on to meet it, and the price covers the tax when it existed and when it does not exist.

The Senator from Indiana [Mr. BEVERIDGE] disclosed a few days ago beyond all doubt, it seems to me, that the extra tax which was placed upon tobacco in 1898 was transferred at once, without even the respect of delay which they ought to have had for legislators, and that the consumers began to pay it immediately, have paid it ever since, and are paying it now.

Yet while the interested American people are looking on, thinking that we are trying to get a tax upon wealth, we are solemnly engaged in putting this burden where it will not be confined to corporations, but will all be charged to those who deal with them, by adding the tax to the price or reducing wages.

Mr. PAYNE, who was then and still is a prominent factor in legislative affairs, a man of vast experience in such matters, when the time came to repeal the portions of the revenue tax of 1898, said:

It is true that there were two classes of special taxation in the war-revenue bill. These were put in by an amendment offered in the Senate, and when they came to the committee of conference they were acquiesced in. I remember making a remark at that time to my associates on the conference committee that they knew and I knew that if this tax should be imposed the people who were expected to pay it would simply put up the price of sugar and petroleum enough to reimburse themselves for the tax which they paid and allow them besides a handsome profit. No doubt such has been the case. I have no doubt that those interests that have been required to pay this tax have collected from their customers more than the amount which they have paid over to the United States in the form of taxation.

President McKinley, in speaking of the repeal of the war-revenue act of 1898, insisted upon its repeal, for the reason that it was apparent the great burden of these taxes instead of falling upon wealth had fallen upon the great mass of the American people.

This tax which we laid for the purpose of meeting the expenses of war, and of a war which the Republican party was pledged to carry on to a speedy and successful termination, and which, as soon as the war was over, we repealed for the purpose of relieving the burdens of the mass of the people, now, at a time of profound peace, we come back and put in the same place and in the same way, but more extensive and more burdensome. I am not old in the service of politics, and perhaps it will seem to some more trained in that business impertinent upon my part to say so, but when it is found what the real effect of this corporation tax is and who will have to pay the greater portion of it, and it is found that the Republican party in time of peace must lay this extra burden upon the mass of the people in order to sustain the running expenses of the Government, if we do not answer for it at the polls it will be because the opposition party has absolutely disintegrated.

We collected in those three years $211,000,000. It was a war measure. Wealth did not pay it. They were just as thoroughly exempted and protected by their process of transferring the tax as this bill would exempt the bondholders in this country. Without saying that it was drawn for the purpose of exempting them, admitting, for the sake of argument, with the President that it was legally necessary to do it, yet we are confronted with the proposition that this measure absolutely exempts those who can not transfer the tax and taxes those who can transfer it to the consumer.

In his opening speech upon the repeal of the war taxes, in December, 1900, Mr. PAYNE said:

Of course, Mr. Chairman, some may say why not put this tax directly upon the express companies and telegraph companies? Well, we did consider that, but the express companies had a right to say to their customers how much they would charge for carrying packages from place to place and could easily add the amount of the government tax to their charges. I know sometimes gentlemen will close their eyes and proceed blindly, as was the case in dealing with the tax on the Standard Oil Company and putting a tax on a sugar refinery, as was done. They forget to consider that these taxes might possibly not affect the companies at all, but the consumers; and a review of the history of the last two years shows what some gentlemen then anticipated when the tax went on in the Senate, that the companies not only got the amount of the tax back, but that the companies got a little additional sum from their customers to enable them to swell their dividends. That was the legislation in that regard. In other words, the tax in all instances seeks the consumer, and usually, if not arrested in its progress, it finds him and forces him to pay the amount due the Government and a little additional also to help swell the dividends of the companies upon whom it was supposed the tax was levied.

Again he says:

This latter tax—

Speaking of the tax upon insurances—

is paid almost entirely by the man who receives the insurance. The man who provides for the future of his family in the event of his death by securing a life insurance or in providing an indemnity for the family—for his wife and children in case the home should burn down—was forced to pay this tax.

In another place Mr. Payne said:

If we impose this tax upon the express companies they will simply add it to their rate of freight. * * * They would simply put it back in additional charges on the people who send packages by express.

Mr. Moody, who now occupies an honored position upon the Supreme Bench, in discussing the tax states one of the vices of the tax in a very definite and specific way. He says:

The ad valorem weight of such a tax as is proposed here would be absolutely crushing to these small companies.

Referring to the express companies:

Every one of the men engaged in this business with whom I have conversed has shown me that they could not continue their business. They could not endure a tax such as that proposed here and hope to operate the business which they have already built up. The whole tax has been annoying, vicious, and burdensome to the people when they deal with large companies, because the tax has been shoved upon them by the action of the companies, sustained by the opinion of the Supreme Court. In whatever form you leave it, the companies will still shove the burden to the people. To the small companies who have carried the burden themselves it has been a calamity, which, if continued, means destruction.

Mr. President, that, to my mind, is one of the inherent vices of this measure. The great corporations, which do business upon a large scale practically without competition, where they can raise the price or lower the price in spite of the objection of anyone, may include this tax in their charges to the public; while the small company, composed of the small stockholders throughout the country, running into thousands and millions, which compose the common citizenship of the country, will have to pay the tax. So in the end it is the common citizenship throughout the country that must meet this burden from the beginning to the close.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER (Mr. DIXON in the chair). Does the Senator from Idaho yield to the Senator from Utah?

Mr. BORAH. I do.

Mr. SUTHERLAND. The income-tax amendment which the Senator is in favor of proposes a tax of 2 per cent on the incomes of the same corporations, as I understand it. If the Senator's argument is sound with reference to the tax proposed upon the business of these corporations as measured by their income, and if the Senator is correct in saying that it will be shifted to the consumer, why will not the same argument apply to that portion of the income-tax amendment for which the Senator stands?

Mr. BORAH. I propose to discuss that later; but in passing I will say that any tax to some extent can be transferred to the consumer. But the income tax as drawn by us reaches the vast amount of wealth in this country represented by bonds and interest upon bonds, fixed and settled incomes, where it can not be transferred. This bill is drawn so as to absolutely exclude those people.

I do not contend that you can place all the burden of any tax upon the wealth of the country, and that is the reason why we should not be so anxious to protect it by law, because it can protect itself to some extent under any bill that you will draw.

But I want to call the attention of the Senator from Utah to the fact that under our amendment the untold millions of bonds in this country would be called to pay their proportionate tax, while we have a bill here specifically exempting them from the tax.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield further to the Senator from Utah?

Mr. BORAH. I do.

Mr. SUTHERLAND. If the Senator, however, is right in saying that the tax imposed by the proposed amendment now under consideration would be shifted to the consumer, it seems to me it can be equally true that that portion of the tax imposed by the income-tax amendment upon corporations will be likewise shifted. Why should not the Senator eliminate that portion of the income-tax amendment?

Mr. BORAH. The Senator from Utah is acquainted with the fact that the first income-tax measure, to which I gave my support in this Chamber, did eliminate it, but when we were forced to confront the organized and combined efforts of those who in this country are determined that wealth shall not bear its proportion of the burden, we compromised for the purpose of getting strength in this Chamber.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. BORAH. I do.

Mr. CRAWFORD. Would not the objection that a tax levied upon a great corporation can be passed on to the patrons of that corporation if it is a defect in this bill be a defect universally? In the State of South Dakota we had, as in a number of Western States, a very active contest with reference to the amount of taxes paid by public-service corporations.

We often heard the claim made that it made no difference if we did increase the amount of the taxes of the public-service corporations 50 per cent or 100 per cent, we would simply be putting that additional burden upon the people, because the corporation could increase their charges and recoup the amount, whatever it might be. If that be carried to its legitimate conclusion, would it not follow that we had better remove all taxes from public-service corporations and great trusts, because, after all, when we put a tax upon them we are simply putting it in their hands to pass it on to their patrons, and it is ineffective so far as being a burden on them?

Mr. BORAH. While the Senator does not seem to appreciate the fact, he has submitted here a reason why every Senator ought to support an income tax and should oppose this corporation tax, because it does not lie within the ingenuity of man to place the burden of taxation, as it should be placed, with equal force upon wealth and consumption, in spite of anything and all we may do. Our system of taxation is based upon the principle that the incident to the tax finally reaches the low man, the bottom man, in this cruel and merciless system of ours. The only thing we can do is to mollify it as much as it is possible to do, and we can only mollify it by taxing those things where they can not shift it. But instead of undertaking to tax things where they can not shift it, we always exempt them from taxation and put it where they can shift it.

Unquestionably the great trusts of this country have transferred their taxes to the consumer. Unquestionably the great corporations of this country have transferred their taxes to the consumer to a very large and alarming extent. The men who do not transfer their taxes and can not transfer them are the uncounted holders of uncounted millions of bonds whom we are exempting from this proposed law at the present time.

Mr. JONES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Washington?

Mr. BORAH. I do.

Mr. JONES. I should like to ask the Senator whether he believes it is possible to transfer an inheritance tax to any extent to the consumer. Is not that a tax which can not be transferred to the consumer?

Mr. BORAH. I do not think you can transfer an inheritance tax. Therefore I am thoroughly in favor of an inheritance tax. The only reason why I do not favor it as a national measure is because some 35 or 36 States of the Union have adopted it, and I would hesitate to take away from or embarrass the States in their power to collect this tax. I would not hesitate a moment to say that I would support the inheritance tax in preference to this tax, although it is, in a measure, double taxation.

Mr. JONES. Would the passage of a national inheritance tax take away from the States their right to tax inheritances?

Mr. BORAH. Only in the sense that it levies an extra burden and it is in the nature of a double taxation. It would not legally take it away. Of course we can tax inheritances as a matter of law the same as the States can, if we have a mind to do so.

Mr. JONES. Is it not also true that the inheritance tax levied by the States is comparatively small? I understand that the percentage is very low.

Mr. BORAH. It is of course a matter of policy as to whether we shall go into that field. I have no doubt that it is a fruitful field, and one which we should utilize. Whether we should leave it to the States, because of the great burdens which are piling upon them exclusively, or go there ourselves is a matter of policy. It reaches, however, that class of property which can not shift the burden.

Mr. JONES. It would meet very largely the objection the Senator is making to this proposed tax.

Mr. BORAH. It would.

Mr. JONES. As well as the possible transference of the income tax to a greater or less degree.

Mr. BORAH. It would.

Mr. BEVERIDGE. Will the Senator permit me a question? Is not the inheritance tax so just that even if it were double, by having both State and Nation tax it, still no injustice would be done? The person from whom the tax is taken has never earned a dollar of it. It is given him by the grace of the Government. Is not an inheritance tax so profoundly just that if it were doubled or even tripled no injustice would result?

Mr. BORAH. That is true, Mr. President. I am not taking a position against the inheritance tax at all. I was just coming to the point of saying that the inheritance tax was one form which can not be transferred. I want to call the attention of the Senate to the fact, however, that there are a great many people in this country to-day enjoying incomes that they did not make a single dollar of; that they do not even furnish sufficient brains to take care of for any reasonable length of time, and have to have guardians appointed. They ought to pay some of the expense of the Government also.

There are vast incomes that the people who are enjoying them did not make any more than the unborn children made the property of their parents. We saw an exhibition of this kind of incomes in the city of New York only a few days ago that reads like one of the chapters from Ferrero's Rome, in

the time of Augustus. Yet we are made to enact laws here for the purpose of protecting that class of wealth when we know that already by its ingenuity it protects itself beyond all human endurance.

Mr. President, when this tax was levied, in 1898, the express companies came out boldly and said, "You have levied a tax upon us; we notify you that we are not going to pay it; we will pass this tax without any hesitancy completely over to the people who do business with us." There was objection to it, and the question was asked, Is there no means or method known to the law by which when a tax is levied upon a corporation it can be made to pay it?

The consumer said, "Does our Republic furnish us no means by which we can compel you to pay that tax? We will try it." And so out of the State of Michigan came a contest in which the specific question was raised as to whether that tax could be transferred to the consumer. I was interested in this question for the reason that it was my purpose, if we could do so, to propose an amendment. I was examining the subject with the idea of introducing an amendment to enable this efficient and powerful publicity bureau to inquire into the question whether or not the tax was being transferred, and if the Government found that it was being transferred under the oleomargarine case to levy an extra excise upon those who did transfer it. I said to myself, "If the laws of the country permit it, why not put in here an amendment which will enable the men who are going out to examine the matter of running corporations to find out whether they are paying it or whether they charge it up to the consumer, and if they do, to make that the base of action under the publicity bureau. When I examined this case I found the Supreme Court of the United States held that not only could they transfer it under that law, but it was not within the power of Congress to enact a law which would prevent them from transferring it; that we are powerless under our form of government to prevent them from transferring this tax openly and boldly from themselves to the consumer.

Mr. President, I call attention to the language of the Supreme Court:

But, as we have said, though the correctness of the claim be arguendo taken for granted, such concession does not suffice to dispose of the essential issues. They are that by the statute the express company is forbidden from shifting the burden by an increase of rates, although such increased rates be in themselves reasonable. As no express provisions sustaining the propositions are found in the law, they must rest solely upon the general assumption that because it is concluded that the law has cast upon the express company the duty of paying the 1-cent stamp tax, there is hence to be implied a prohibition restraining the express company from shifting the burden by means of an increase of rates within the limits of what is reasonable. In other words, the contention comes to this, that the act in question is not alone a law levying taxes and providing the means for collecting them, but is moreover a statute determining that the burden must irrevocably continue to be upon the one on whom it is primarily placed. The result follows that all contracts or acts shifting the burden, and which would be otherwise valid, become void. To add by implication such a provision to a tax law would be contrary to its intent, and be in conflict with the general object which a law levying taxes is naturally presumed to effectuate. Indeed, it seems almost impossible to suppose that a purpose of such a character could have been contemplated, as the widest conjecture would not be adequate to foreshadow the far-reaching consequences which would ensue from it. To declare upon what person or property all taxes must primarily fall is a usual purpose of a law levying taxes. To say when and how the ultimate burden of a tax shall be distributed among all the members of society would necessitate taking into view every possible contract which can be made, and would compel the weighing of the final influence of every conceivable dealing between man and man. A tax rests upon real estate. Can it be said that by the law imposing such a tax it was intended to prevent the owner of real property from taking into consideration the amount of a tax thereon, in determining the rent which is to be exacted by him? A tax is imposed upon stock in trade. Must it be held that the purpose of such a law is to regulate the price at which the goods shall be sold, and restrain the merchant therefore from distributing the sum of the tax in the price charged for his merchandise? As the means by which the burdens of taxes may be shifted are as multiform and as various as is the power to contract itself, it follows that the argument relied on if adopted would control almost every conceivable form of contract and render them void if they had the result stated. Thus the price of all property, the result of all production, the sum of all wages, would be controlled irrevocably by a law levying taxes, if such a law forbade a shifting of the burden of the tax, and avoided all acts which brought about that result. It can not be doubted that to adopt, by implication, the view pressed upon us, would be to virtually destroy all freedom of contract, and in its final analyses would deny the existence of all rights of property. And this becomes more especially demonstrable when the nature of a stamp tax is taken into consideration. A stamp duty is embraced within the purview of those taxes which are denominated indirect, and one of the natural characteristics of which is, although it may not be essential, that they are susceptible of being shifted from the person upon whom in the first instance the duty of payment is laid. We are thus invoked by construction to add to the statutes a provision forbidding all attempts to shift the burden of the stamp tax when the nature of the indirect taxation which the statute creates suggests a contrary inference. And, in this connection, although we have already called attention to the consequences which must generally result from the application of the doctrine contended for, it will not be inappropriate to refer to certain of the provisions of the act now under consideration, which more aptly served to make particularly manifest the consequences indicated, thus perfumery, patent medicines, and many other articles are required by the statute to be stamped by the owner before sale. The logical result of the doctrine referred to would be that the price of the articles so made amenable to a stamp tax could not be increased, so as to shift the cost of the stamp upon the consumer. Yet it is apparent that such a construction of the statute would be both unnatural and strained.

The argument is not strengthened by the contention that as the law has imposed the stamp tax on the carrier, public policy forbids that the carrier should be allowed to escape his share of the public burdens by shifting the tax to others who are presumed to have discharged their due share of taxes. This argument of public policy, if applied to a carrier, would be equally applicable to all the other stamp taxes which the law imposes. Nor is the fact that the express company is a common carrier and engaged in a business in which the public has an interest and which is subject to regulation of importance in determining the correctness of the proposition relied upon. The mere fact that the stamp duty is imposed upon a common carrier does not divest such tax of one of its usual characteristics or justly imply that the carrier is in consequence of the law deprived of its lawful right to fix reasonable rates. Unquestionably a carrier is subject to the requirement of reasonable rates; but, as we have seen, no question of the intrinsic unreasonableness of the rates charged arises on this record or is at issue in this cause. As previously pointed out, to decide as a matter of law that rates are essentially unreasonable from the mere fact that their enforcement will operate to shift the burden of a stamp tax would be in effect but to hold that the act of Congress, by the mere fact of imposing a stamp tax, forbids all attempts to shift it, and consequently that the carrier is deprived by the law of the right to fix rates, even although the limit of reasonable rates be not transcended. This reduces the contention back to the unsound proposition which we have already examined and disposed of. (American Express Co. *v.* Michigan, 177 U. S. Repts., p. 412.)

Mr. SUTHERLAND. Mr. President, will the Senator permit me to ask him a question right there?

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Utah?

Mr. BORAH. I do.

Mr. SUTHERLAND. Mr. President, does not the argument of the Senator from Idaho, carried to its logical conclusion, prove altogether too much? If it is a valid objection to this proposed amendment that the burden of the tax may be shifted to the patron or to the consumer, is that not also a reason why we should repeal all existing taxes—state taxes upon common carriers and upon other persons who may likewise shift the burden? For example, it is perfectly clear that when a tax is imposed upon a railroad company, the amount of that tax is shifted to the patrons of the road. If the argument of the Senator be sound, why should he not go far enough to say that that tax should be repealed and that we should not tax railroad companies or similar corporations at all?

Mr. BORAH. Mr. President, bearing in mind that we have a Government which has to be supported and that civilization depends upon the fact that we maintain a government rather than to follow the somewhat startling suggestion of the Senator from Utah [Mr. SUTHERLAND] and repeal all taxes, I should prefer, if I can, to put a part of the taxes where they can not be shifted. I do not want the Senator from Utah to forget that this contest in this Senate Chamber is not over the raising of a small temporary revenue, but it is over the proposition of whether we shall change the great principle of taxation in this country and place a part of the tax where it can not be shifted to the common citizenship of the country. We are not going to go back, Mr. President, to the owls and bats. Rather than to say we shall not put a part of this tax where it can not be shifted, we shall continue this contest until the uncontrollable wrath of the American people shall waken us to the fact that the great disparity between wealth and poverty in this country arises more out of our system of taxation than it does from the so-called "trusts." When you can put all the burden of government in one place, it is not long before you have that condition of affairs, whether it is in a republic or a monarchy, where the great masses are bearing the burden and the few are living upon the efforts of the masses.

Mr. President, to illustrate further, our system of taxation had its origin in the period of feudalism, when the tax was laid upon those, and those only, who could not resist the payment of it. That was the first tax under our present taxing system. The plan then was, as stated by a noted writer—and it was earnestly argued in those days—that it was a proper distribution of the burdens of government that the clergy should pray for the government, the nobles fight for it, and the common people should pay the taxes. The first fruits of that system, and the first modification of that system, were had during that economic and moral convulsion which shook the moral universe from center to circumference—the French revolution. Historians dispute to-day as to the cause of the French revolution. If you would know the cause, you will not find it in the days transpiring with the fall of the Bastile; you will not find it in the days when Robespierre, drunk with human blood, leaned against the pillars of the assembly, as he listened to his own doom. It is back of that. It is in those immediate years preceding, when the burden of government had become intolerable, when the stipends paid to the miserable satellites of royalty had become criminal; when bureaucracy reached out into every part of the

nation and bore down upon the energies and the industries of the common man; and when, Mr. President, 85 per cent of that fearful burden was collected from the peasantry of France, which forced them from their little homes and farms into the sinks and dives of Paris, where the French revolution was born.

The history of taxation is well worthy of the attention of those who believe that, in order to maintain a republic, we must always have at the base of our civilization an intelligent, free, and, to some extent, an unburdened citizenship. No, Mr. President, we will not repeal all taxes; but we will distribute the burdens; though we may not do it this session, and I do not suppose we will, we will do it before this fight is over.

Mr. President, I have called attention to that period when the revenue act of 1898 was before Congress. Certain newspapers of the country and, to a certain extent, all the great corporations without any exception, bitterly opposed that tax. They did not know how easy it would be apparently, not theretofore having had a special tax laid upon them, to transfer it. The main proposition of taxing corporations was defeated, but the amendment covering two classes of business went through. Of course certain stamp taxes were enacted which the corporations were supposed to pay. Then they began this contest. They demonstrated the fact, as a practical proposition, that they could transfer it; they demonstrated, as a matter of law, that they had a right to transfer it; and they demonstrated, as a matter of law, that there was no power in Congress to prevent the transfer. So to-day we are advised through newspapers that the great corporations in the land are saying, "put on this tax in preference to the income tax."

I do not want it to be understood that I am charging that the Finance Committee has gone about this for the purpose of doing such a thing. They may stand upon the legal proposition that, rather than submit another question to the Supreme Court, they would do this; but the result of the legislation is the same. Whether from one motive or another, the result of it is that the great corporations, controlling the great industries in this country, are standing side by side with the Committee on Finance in support of this proposition in preference to the income tax. Why? Because they can transfer this tax; while that class of men, that vast amount of wealth to which the Senator from Iowa [Mr. CUMMINS] called attention, can not transfer.

Speaking of the decisions, Mr. President, and the idea of going to the Supreme Court again, I will digress to say just a word now, rather than later. It seems to me, with all due respect to those who suggest this proposition, that it is based upon an incorrect idea both as to the function of the court and the relation of the people to the court. It is a great tribunal; it is a tribunal having power to wreck or to sustain the Government, although without command of sword or purse.

But, Mr. President, think of this argument: Away back, just after the Constitution was adopted, Congress put a tax upon what they then called "luxuries" or "wealth;" those who had carriages, and could use them for their own personal use. Wealth went to the Supreme Court of the United States and tested that proposition, and said that it was a direct tax under the Constitution; but the Supreme Court sustained the tax.

We come down to the great civil war, and the fathers who organized the Republican party—Abraham Lincoln, Salmon P. Chase, Charles Sumner, and that class of men—again laid the taxing power upon the wealth of this country in the form of tax on incomes. Wealth went again to the Supreme Court, and did what? Asked them to reconsider the opinion of fifty-odd years before, when they had settled and said what a direct tax was. The court passed upon it again. In a short time the same class of people went again to the Supreme Court; and, notwithstanding the fact that there had been a unanimous opinion as to what a direct tax was, they again asked them to reconsider it.

The next time those who were seeking to escape taxation, having three decisions of the Supreme Court before them, they went again to the Supreme Court and asked them to reconsider; and the Supreme Court, with that patience and broad mindedness which has always characterized that great tribunal, again went carefully into the question, reviewed its former decisions, went into the history of the Constitution and its making, and again told the wealth of this country what constituted direct taxes. Four times they had interpreted the Constitution by a unanimous judgment of the court; but still again they came and asked the Supreme Court to once more review its decisions. For nearly one hundred years, beginning with those who wrote the Constitution of the United States, down until years after the close of the great war those who were seeking to escape taxation went again and again to the Supreme Court, and in the face of those decisions, unanimous as they were, asked for a review and a reconsideration of the question. The Supreme Court, with patience and care, examined the subject again in all its ramifications. Time passed on, and in 1894 another law was enacted taxing the incomes of the country, and notwithstanding the five decisions of the Supreme Court defining a direct tax, the untaxed wealth and the untaxed incomes of this country traveled their way to the Supreme Court again and asked the Supreme Court to review five unanimous decisions as to what is a direct tax. They succeeded in what? By a bare majority of one, against the decisions preceding, they succeeded in establishing a different rule of interpretation. As to that decision Mr. Justice White said:

> My inability to agree with the court in the conclusions which it has just expressed causes me much regret. Great as is my respect for any view by it announced, I can not resist the conviction that its opinion and decree in this case virtually annuls its previous decisions in regard to the powers of Congress on the subject of taxation, and is therefore fraught with danger to the court, to each and every citizen, and to the Republic.

As to that decision these are searching words of Mr. Justice Harlan:

> In my judgment, to say nothing of the disregard of former adjudications of this court and of the settled practice of the Government, this decision may well excite the gravest apprehensions. It strikes at the very foundation of national authority, in that it denies to the General Government a power which is, or may become, vital to the very existence and preservation of the Union in a national emergency such as that of a war with a great commercial nation, during which the collection of duties upon imports will cease or be materially diminished. * * * The decision now made may provoke a contest in this country, from which the American people would have been spared if the court had not overturned its former adjudications and had adhered to the principles of taxation upon which our Government, following the repeated adjudications of this court, has always been administered. Thoughtful, conservative men have uniformly held that government could not be safely administered, except upon principles of right, justice, and equality—without discrimination against any part of the people because of their owning or not owning visible property, or because of their having or not having incomes from bonds and stocks. But by its present construction of the Constitution the court, for the first time in all its history, declares that our Government has been so framed that in matters of taxation for its support and maintenance those who have incomes derived from the renting of real estate or from the leasing or using of tangible property, bonds, stock, and investments of whatever kind, have privileges that can not be accorded to those having incomes derived from the labor of their hands or the exercise of their skill or the use of their brains.

Since that bare majority of one has been obtained, Senators urge that the great masses of the American people, who are asking to have this tax burden distributed, shall not go again to the court to have that question considered, out of a mere delicacy of consideration for that tribunal.

Mr. President, that great tribunal, whose judgments and decrees deal with the destiny of 46 sovereign Commonwealths and with all the plans and purposes of a great Nation, within whose jurisdiction are found the rights and liberties of the humblest citizen, and the complex and ever-haunting problems of state and national sovereignty, can not be too jealously guarded or profoundly honored to suit me. If we differ upon that question we differ only as to the method of making known our respect for its power and our concern for its continued usefulness and honor. As a citizen, I bow uncomplainingly to its judgment; as a lawyer, I seek its decisions as the wisest and most profound expositions of the law to be found among our own people or elsewhere, controlling and authoritative, not simply because the Constitution makes them so, but because of their learning and research and wealth of reasoning; but, sir, as a legislator, sworn to uphold and maintain the Constitution, pledged to preserve it in all its integrity of purpose, I most respectfully submit that I am not precluded from carrying to that tribunal for its reconsideration a question upon which they were all but evenly divided. Where great and powerful intellects trained in constitutional law, each determined to arrive at a sound and righteous conclusion, differ by a bare margin of one, and by such difference overturn the precedents and practice of a century, and by such difference overturn the precedents upon which we had collected millions from the American people and fought the great battles of the Union, who will tell me that under such circumstances it is an assault to the dignity of the court or an undermining of its confidence to ask it again to reconsider that question?

Mr. President, the mere change of opinion upon a specific question of law submitted is a small item to mar the confidence of the people in that august body. Our confidence is best assured and most definitely determined when it is ascertained that although specific errors may creep in, errors which are human, the inherent bent of its innate strength and virtue, the compelling power of its intellectual integrity are to correct those errors, so that, in the wide sweep of the years, its judgments may stand the test of reason and the strain of time. Sir, I honor that tribunal by appealing to its great patience, its tolerance, its willingness so magnificently exhibited upon scores of occasions to reexamine its own opinions. Let us do our

duty as we understand it, with a due regard to the rights of the people and our sworn obligations here, and trust the great jurists, who now occupy places upon that bench and who rank well in heart and brain with their great predecessors, to protect and preserve the integrity and honor of that bench, and transfer it unimpaired and untarnished to succeeding generations.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER (Mr. DIXON in the chair). Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. BORAH. I do.

Mr. CLAPP. I move that the Senate adjourn.

Mr. BURROWS. Mr. President, do I understand that it is the desire of the Senator from Idaho to discontinue at this time?

Mr. BORAH. I would prefer not to go on.

Mr. BURROWS. If the Senator would prefer to go on, there is ample time——

Mr. BORAH. I would prefer to discontinue for the present.

Mr. CLAPP. Of course I would not have made the motion if it were not agreeable to the Senator from Idaho.

The PRESIDING OFFICER. The Chair did not fully understand the Senator from Minnesota.

Mr. CLAPP. I move that the Senate adjourn.

Mr. SMOOT. Mr. President——

Mr. LA FOLLETTE. The question is not debatable, Mr. President.

Mr. BURROWS. I suggest to the Senator from Idaho, if it would not be disagreeable to him, that it is only half past 5, and we could proceed for a little time longer.

Mr. BORAH. If it is desired, I can proceed until 6 o'clock.

Mr. BAILEY. Mr. President, I think a motion to adjourn is not debatable; and I ask the Chair to submit to the Senate the motion of the Senator from Minnesota [Mr. CLAPP].

Mr. BURROWS. Of course, it is not debatable——

The PRESIDING OFFICER. The Chair understands the motion is not debatable, and that the debate is proceeding by unanimous consent.

Mr. BURROWS. But the Senator from Idaho says he is willing to proceed until 6 o'clock.

Mr. SMOOT. If the Senator from Idaho does not desire to continue, it is possible that some other Senator can go on and let the Senator from Idaho rest. A good many Senators, in addition to the Senator from Idaho, desire to speak on this subject.

Mr. BEVERIDGE. If a motion to adjourn is made, unless the Senator making it withdraws it, it can not be debated.

Mr. SMOOT. Is there not a unanimous-consent agreement that we shall continue in session until 7 o'clock?

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota.

Mr. BEVERIDGE. Unless the Senator withdraws it——

Mr. CLAPP. I do not withdraw it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota [Mr. CLAPP]. [Putting the question.] By the sound the "noes" appear to have it.

Mr. CLAPP and Mr. LA FOLLETTE called for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are demanded.

Mr. SMOOT. I suggest the absence of a quorum.

Mr. LA FOLLETTE. You will not find a quorum here, if you call the roll.

Mr. BURROWS. There ought not to be any difficulty about this matter. I understand the Senator from Idaho is willing to proceed until 6 o'clock.

Mr. BULKELEY. Some of us who have been sitting here all day listening, however, are just as eager to go as the Senator who has been speaking.

Mr. KEAN. We should like to get through with this bill, if we can.

Mr. BULKELEY. I do not see how you can finish it to-night.

Mr. BAILEY. You will not make any progress by trying to force a man to speak when he is exhausted.

Mr. SMOOT. I have no desire to do so, Mr. President.

The PRESIDING OFFICER. Is there a second to the demand for the yeas and nays?

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I am paired with the senior Senator from South Carolina [Mr. TILLMAN]. As he is not present, I withhold my vote.

Mr. FLETCHER (when Mr. TALIAFERRO's name was called). The senior Senator from Florida [Mr. TALIAFERRO] is paired with the senior Senator from West Virginia [Mr. ELKINS].

The roll call was concluded.

Mr. BRIGGS (after having voted in the negative). I inquire if the senior Senator from Alabama [Mr. BANKHEAD] has voted?

The PRESIDING OFFICER. The Chair is informed that he has not.

Mr. BRIGGS. I have a pair with that Senator, and therefore withdraw my vote.

Mr. McLAURIN. I inquire if the Senator from Michigan [Mr. SMITH] has voted?

The PRESIDING OFFICER. The Chair is informed that he has not.

Mr. McLAURIN. Then I withhold my vote, as I am paired with that Senator.

Mr. BACON. I desire to announce that the Senator from Tennessee [Mr. FRAZIER] is absent from the Chamber on account of illness.

The result was announced—yeas 34, nays 17, as follows:

YEAS—34.

Bacon	Clay	Hughes	Page
Bailey	Crawford	Johnson, N. Dak.	Perkins
Borah	Culberson	Jones	Piles
Bourne	Cummins	La Follette	Simmons
Bristow	Daniel	Money	Smith, S. C.
Brown	Dick	Nelson	Stone
Bulkeley	Fletcher	Newlands	Warner
Clapp	Foster	Overman	
Clark, Wyo.	Gamble	Owen	

NAYS—17.

Brandegee	Curtis	Lodge	Sutherland
Burkett	Flint	Oliver	Warren
Burrows	Gallinger	Root	
Carter	Guggenheim	Scott	
Cullom	Kean	Smoot	

NOT VOTING—41.

Aldrich	Depew	Johnston, Ala.	Shively
Bankhead	Dillingham	Lorimer	Smith, Md.
Beveridge	Dixon	McCumber	Smith, Mich.
Bradley	Dolliver	McEnery	Stephenson
Briggs	du Pont	McLaurin	Taliaferro
Burnham	Elkins	Martin	Taylor
Burton	Frazier	Nixon	Tillman
Chamberlain	Frye	Paynter	Wetmore
Clarke, Ark.	Gore	Penrose	
Crane	Hale	Rayner	
Davis	Heyburn	Richardson	

So the motion was agreed to; and (at 5 o'clock and 45 minutes p. m.) the Senate adjourned until to-morrow, Thursday, July 1, 1909, at 10 o'clock a. m.

SENATE.

THURSDAY, *July 1, 1909.*

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 1033) to provide for the Thirteenth and subsequent decennial censuses, and it was thereupon signed by the Vice-President.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Commercial Travelers' Protective Association of America, praying that Congress grant Dr. T. R. Timby, of Brooklyn, N. Y., a rehearing before the Court of Claims, which was referred to the Committee on Claims.

He also presented an address by the Colony of Persia in Egypt through its committee of award relating to the evacuation of Bushir, etc., which was referred to the Committee on Foreign Relations.

Mr. JONES presented a memorial of the Clearing House Association of Spokane, Wash., remonstrating against the adoption of the so-called "Bailey-Cummins income-tax amendment" to the pending tariff bill, which was ordered to lie on the table.

Mr. SHIVELY presented a petition of sundry citizens of the United States, praying that an appropriation be made to reimburse them for losses sustained during the military operations at Samoa in March, April, and May, 1899, which was referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

The following bills were introduced, read the first time, and, by unanimous consent the second time, and referred as follows:

By Mr. SHIVELY:

A bill (S. 2801) granting an increase of pension to Michael Collins;